# AN OPEN LETTER TO SOCIETY FROM CONVICT 1776

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# AN OPEN LETTER TO SOCIETY

FROM

CONVICT 1776

*With an Introduction by*

*MAUD BALLINGTON BOOTH*

NEW YORK CHICAGO TORONTO

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TO
ALL THOSE
WHO LOVE JUSTICE

220978

# INTRODUCTION

IT is a pleasure to write a few words for the nameless writer of this book that may help to introduce him to "Madam Society," that she may give serious thought to his appeal. I have always felt, since I have been closely in touch with the prison world, that there was only one standpoint from which this great problem could be thoroughly understood, and that is *the standpoint of the cell.* Penologists and criminologists have written many volumes, treatises, articles upon these men and women, whom they have studied from their own viewpoint. Now it is only fair that the world should hear the other side of the question, that the claim of the man within the cell should be made upon the attention of those who, all too likely, dismiss him from their thought and interest.

It might be argued that one writing from a prison cell would be so influenced by personal grudge, by individual wrongs, or by his own past life, that his view would be a distorted one. Any one who will take the trouble to read the following pages will have to acknowledge that it is a logical, sober and straightforward presentation of a prisoner's point of view. He does not voice his own wrongs, he does not rant against the world in general; he is not a crank upon the subject of the rights of any special members of the community. Calmly, clearly and very cleverly he presents questions which I have had presented to me month

after month for the past fifteen years, as I have come in contact with thousands of those whom society has branded as convicts.

I do not say that I endorse all that is written in this little work. There are many prisons where wonderful and radical reforms have already been instituted; there are many prison officers in this country who are conscientiously and effectually bettering an unfortunate system, doing it as well as they can with their hands tied by political conditions and by the lack of sympathy shown among legislators towards those who are in durance vile.

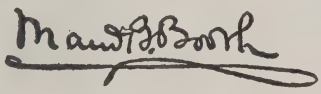
The writer of this book has been in one or two of the far Western prisons. He speaks from the experience of those whom he has there met, whereas many others could speak of better and brighter conditions which are coming slowly but surely to raise the dark pall of hopelessness which so often falls upon the life of those condemned to what is almost a living death. The fact that I do not agree with all that is said in this little book does not alter the fact that there is much that I most strongly endorse as one who would speak for the "boys," championing their cause and pleading with the world for a more rational treatment, a more unbiassed judgment and a more Christian attitude towards those who have had the misfortune to slip into the paths that lead to prison life.

That there is no criminal class has been clearly demonstrated to every one who is in close touch with the world within the prison walls. This great family within the shadows is made up of units drawn from every circle of society, from every kind of home,

leaving behind them broken hearts, shadowed hearths and loved ones often forced to become the victims of dire poverty and destitution. If the shadow had fallen in our own home, if the trusted husband, a dearly loved son, a revered father or an idolized brother had been snatched from us and was to-day marching in that long, sad, gray line, how intensely would this whole subject appeal to our sympathy and interest, how vitally it would stand out among the problems of to-day!

Let those who believe in the Fatherhood of God and the brotherhood of man realize that no sentence passed in court, that no crime committed by human hand, that no name bestowed by society's grading, can alter the fact that we who love our country, who believe in our God and who take an interest in humanity, *are our brother's keeper.*

Yours truly for our country's prisoners,



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# SALUTATION

"'Rights,' repeated Tapley quickly; 'pray, what rights have criminals and drunkards?'

"'The right to protest against the system which makes them criminals and drunkards.'"

—"*Wine on the Lees*," by J. A. STEUART.

# I

## SALUTATION

My Dear Madam Society:—

YOU have placed me in the company of thousands whom you consider your enemies and whom you discuss and preach to as the "criminal classes." Concerning us you have read much written by those who called us your foes; but I do not believe you have ever heard from one of us who wrote for the truth's sake and not for the purpose of self-justification or of ingratiating himself again into your company. Some of us have written about the food we eat, the clothes we wear, the rules we are compelled to obey, and the hours we go to bed and rise; but, so far as I know, none of us has ever told you the effect of your penal system on us, or has spoken to you with a tithe of the directness you use in speaking to and about us. As a rule, the released convict feels his own guilt when he sits down to write to you, and this feeling estops him from any recital of facts that would tend to question your methods of dealing with crime. Permit me to say at once, I have no such feeling to make me reticent.

According to your conception of the term, I am an habitual criminal. Eight times you have shown me the door; seven times I have returned after absences of varying lengths, only to be ejected as soon as my

identity was discovered. In two or three years, I shall call on you again. When I do so, I shall not go into those rooms of your dwelling in which the occupants know me. My friends of the past shall remain of the past, and my friends of the future shall be such as my life shall entitle me to. Of my present confinement, I have only this to say, I am here solely because I was in similar places before. I presented my case to the proper authorities, but when my record was known, my petition was laughed into a pigeonhole. I do not hope to shorten my time one day beyond the remission allowed by statute for good conduct, and I am resigned to my lot. It is immaterial to me whether you believe me guilty or innocent. I have mentioned this much about myself to show you why I feel free to criticise, and that my experience entitles me to do so. As I shall criticise prison discipline severely, it may be well for me to add that I was never punished but once in any of your penitentiaries in which I have been a convict, and that was for an offence as trivial as the punishment I received.

I shall use some opinions that are common enough among us; but it is only fair, Madam, that I should tell you that I do so without the knowledge or consent of my brothers in durance. Some of them are busy trying to propitiate your anger; others have no means of doing so, and are therefore silent. The latter will gain your presence some day by a rear door or an unguarded window, and then they may do damage unless you recognize their rights within your dwelling and give them a fair opportunity to live according to the rules, laws, customs and proprieties of

your household. And some of them you must prepare for this mode of life, or they will not even grasp the opportunity should you give it to them. I shall also tell you much about ourselves and our strange domiciles. These are matters of which you know little or nothing, if one is to judge by what is written about criminals and prisons.

The greater part of our offences is against your accepted suitor, Mr. Dollar. Indeed, if you consider that most of the crimes against persons are incidental to crimes against property, you will find that about eighty-five per cent. of our crimes are against him, and it is almost wholly of these that I shall write.

A few years ago, Mr. Dollar was wont to scatter his strength and affections; but as he grows older, he is beginning to collect himself and to settle down. As he increases in bulk and fidelity, you worship him the more, although he is constantly demanding more of you. We have no gold to offer you, Madam, but we do not wish you to give your affections to crime or to assume any O-my-isn't-it-too-bad attitude toward its perpetrators. But we do desire to call your attention to one of your own sex, and to ask for her intercession in our behalf. You know her well, and she is always ready to serve you. Now and then you have called her in for a moment to renovate your untidy household, and then you have led her outside that she might not hear your upsetting of the furniture she arranged. Those who have your bounty, place thumb to nose when she goes by; but those who need her, speak plaintively and call her Justice. She cannot come of herself into your dwelling; you must lead

her. But before you do so, may I ask if you know that she will put a stop to many of your extravagant tastes and girlish whims? You should not have her stay too long at first, Madam, for in time she would so change the arrangements of your household, that you would no longer feel at home and, piqued by the alterations, you would, I fear, leave your dwelling and all its valuable treasures, to house yourself in another that might be worse than the one you are in now, and you might be compelled to give less of your time and affections to Mr. Dollar. However, there are certain extravagances in the mismanagement of your human property that Justice can stop and, at the same time, arrange these affairs so that your lover will not need to look after them so much for you. Of these extravagances you are ignorant, because to some of the men who are competent to enlighten you, you say: "Silence, or you shall become a pariah in my sight."

Although I hear you say this, I shall speak, because I am screened by a pen number, and because I have such confidence in the opinion Justice shall give you of my contentions that I believe you will ultimately thank me for my insistence. I beg of you, Madam, call her into your library and read this letter in her presence.

For fear you may misapprehend my attitude, I wish to say at the outset that I hate crime. Moreover, there are few, if any, of us of matured minds, who do not hate it. Why those who hate it still continue in it, may mystify you. But, perhaps, as you read this letter, you will find many reasons for this seeming

paradox, and for the failure of your theories when put to a practical test.

It is not my intention to convert every cause into an effect, until I arrive at the First Great Cause, or again at my starting point, or wherever I should arrive, but to accept your civilization as it is and to reason from things as they are. I hope to show you that circumstances beget the criminal; courts baptize him, when they can get him before the font of your law; penitentiaries nurse and instruct him, and that you give him employment only in accordance with this instruction. I hope to show you the barbarism that lurks in the deterrent principle and consequently in your penal system, and to lay before you important truths with regard to repression and reformation. Lastly, I shall suggest to you a remedy for the evil in your method of dealing with crimes against property.

I shall not in the least justify crime, whether it be committed by us against you, or by you against us. Although it is not possible for one who is not yet thirty-five, to have been in very many of your penitentiaries, I have talked with convicts from nearly every large penitentiary in the United States, and the incidents I shall relate are applicable, in a greater or less degree, to all your penal institutions. These incidents are facts that have come under my personal observation, with the exception of those relating to the "reform school," and for these I am indebted to men who were inmates of the "reformatory" at the time.

I shall not satisfy the cravings of the morbidly curious by giving details of the savage cruelties I have

seen practised that have resulted in the maiming of convicts for life, and, in some cases, have even caused death, for you would not believe me if I did. Moreover, it has seemed to me that the effects of imprisonment can be shown by incidents that do not display your officials in so cowardly or so savage a light as do many you can find in the pigeonholed reports of investigating committees. Again, it would be unfair to those of your officials who have not descended to such unbelievable savagery.

Inasmuch as crime costs you $125,000 an hour, twenty-four hours a day, three hundred and sixty-five days a year, such a letter as this would seem to be worthy of your consideration.

# ABOUT "CRIMINAL CLASSES"

"Nothing shall warp me from the belief, that every man is a lover of truth. There is no pure lie, no pure malignity in nature. The entertainment of the proposition of depravity is the last profligacy and profanation."

—EMERSON.

## II

## ABOUT "CRIMINAL CLASSES"

GRATEFULLY I profess to have a small portion at least of that "saving sense of humor that rainbows the tears of the world." Without it, the phrase, "criminal classes," would raise in me all the anger and resentment of which I am capable. As it is, the mention of it provokes a smile which I restrain until I read that criminals belong to a separate race. Indeed, so much utter nonsense has been written about the "criminal classes" that, when a man commits a crime, and is punished for it, the press and people generally at once classify him as a strange, mysterious, brutish specimen of humanity, and usually the more "scientific" the writer, the more inane, superficial or impractical his ideas. He talks learnedly about the incorrigible, the inveterate, the habitual criminal, the recidivist and the congenital, or born, criminal. He gathers prison statistics and waxes eloquent on their bearing on the deterrent principle. He visits jails and penitentiaries, calls the inmates one at a time into a private room, thoroughly examines their features for evidences of degeneracy, and then goes away to write a paper full of technical terms he has invented to describe alleged peculiarities of the "criminal classes." There you have his knowledge of the criminal. If he should obtain the unrestrained con-

fession of one convict and know that one life from its beginning, as the father of your juvenile court knows the lives of many boys, he would have the beginning of some real, sound knowledge of crime and criminals. His conclusions can be no better than his superficial conception of the criminal, yet he foists them on you as scientific truths.

These so-called truths lead the ordinary man to believe that he cannot become a criminal, because he is like other men whom he daily sees outside your prisons. The little irregularities of his own life do not matter and cannot lead him to the penitentiary, because he is not a degenerate. He ridicules the idea that his aberrations are criminal. Not long ago, a banker's wife, enjoying riches and social position, was detected in the act of smuggling diamond ornaments into your domain. In the course of her conversation with the Collector of the Port, she said:

"I can *understand* that smuggling is a crime, but, for the life of me, I cannot *feel* that it is; and, as for your deputy here who says that it is stealing, why, he is a fanatic, and that is all there is to that."

I have no doubt, Madam, that this woman not only understands, but that she also feels that the popular idea of convicts is correct, that she classifies murderers and thieves and all the remainder as people of another race, equally degenerate, or equally depraved, especially when she sees that in prison they are all dressed alike. It is almost believable that, even as the ancient geographers placed hippogriffs and anthropophagi in the unknown portions of the world, so she considers that the walls of a penitentiary contain

only animals equally monstrous. This would seem to be the reason she could not realize that she, too, was a thief.

The idea that we are essentially different from ordinary human beings may be highly gratifying to them, and I admit there is a difference between us and those outside. Some persons offend your law; of these offenders, a few are caught; of these a few are punished. We are your punished class. The supposition that the man who offends your law is wholly wanting in manhood and principle, is absurd. Yet you and your law accept this supposition as a demonstrated truth, and you subject us all to the same treatment irrespective of our crimes or natural tendencies, of our previous environment, teachings or habits, or of our present conception of our duties and responsibilities. However, you seem to profess that there are different ways of arriving at this state of absolute criminality.

For example, your writers speak of the born criminal. He has walked across the pages of a hundred novels; he has been the subject of countless learned papers and many microscopic, metaphysical and so-called scientific investigations; but, in my opinion, he is a simple myth. I have been acquainted, in varying degrees of intimacy, with hundreds of convicts; but I have never knowingly met the "born criminal," nor have I ever met with any practical observer who had. What are the earmarks of this born criminal? How is he to be known from the "accidental" criminal, or from any one else? Why is he styled a born criminal? Because he has epilepsy? Cæsar had it. Because an arm or a leg is shorter than its

fellow? Byron was a cripple. Because he is absent-minded or has a short memory? These failings are common among men. Is it because of weak eyesight, as some investigators actually assert? Hardly. Is he a born sneak-thief? The essentials of a successful sneak-thief are equally the essentials of a successful hunter, trapper, angler, detective or prison guard. Is he a born burglar? Then he is a born mechanic. Is he a born forger? Then he is a born penman. Is he a born counterfeiter? Then he is a born engraver. Is he a born confidence man? Then he is a born solicitor, lawyer or politician. Is he a born incendiary or murderer? Any man knows how to burn or kill. Then what is he, Madam?

You reply that all crimes against property except malicious mischief and arson are simply theft, and that, given the desire to steal, a man uses the methods best suited to his abilities and opportunities. I agree with that. Then you say that the born thief is one born with a desire to steal. Well, the desire to steal is simply the desire to get something for nothing, and if there be a born thief, he is the whole human race. As I see it, to exercise successfully, in any degree, without the loser's knowledge or consent, the desire to get something for nothing, is theft. But your law provides certain limits within which this desire may be exercised with impunity, and you say it is only when theft is committed outside those limits that it constitutes a crime. Some of the frenzied financiers, and their ilk, born with an abnormal desire to get something for nothing and an extraordinary mental ability to serve this desire, exercise it within the limits

of the law, or so stealthily outside of them that they evade the legal consequences. Others, born with the same desire, exercise it without the pale of the law and are sent to your penitentiaries. Both groups begin accumulating something for nothing, without the loser's knowledge or consent, at the earliest possible age; but, despite the fact that the acts of the former are far more injurious to individuals and to you than those of the latter, you look upon the latter only as born criminals. To deny the wisdom of having a law to define crime simply because every act which is a crime when measured by reason is not included within the law's definition, would be silly. I do not do this. But I say that a classification of criminals, which is supposed to be made upon scientific principles deduced from natural laws, cannot depend also upon statutory definitions of crime; for by this, too many criminals are excluded. On the other hand, to include within the classification all persons who, at any time, exercise in any degree, without the loser's knowledge or consent, the desire to get something for nothing, would be an indictment against mankind. I have too much confidence in human nature to say that mankind is a born thief.

To be sure, there are born maniacs who steal and kill and destroy without intent or reason, and born idiots and imbeciles, poor creatures in a world devoid of pain or pleasure; but the man who is fundamentally insane is vastly different from the man who is supposed to possess a congenital propensity to commit crime coupled with cunning to conceal it and capacity to enjoy its fruits. Essential to crime is intent. The

insane are incapable of intent, cannot commit crime, cannot be criminals.

Although this is so, there is one form of insanity which your law does not recognize as such, except, I believe, in the State of Massachusetts. I refer to dipsomania, one of the active causes of crime. Your legal dictum is: "Drunkenness is no excuse for crime." Under this rule, your law places the acts of dipsomaniacs, in spite of physicians and alienists, who declare that dipsomania is a true form of insanity, and that its victims are wholly irresponsible for their being intoxicated and for their acts while in that condition.

True, all drunkards who offend the law are not dipsomaniacs. Frequently drink is not a cause of, but a mere incident to, crime. It gives the false courage some criminals need and, with it, they later celebrate the accomplishment of their evil work. Arrested finally in a drunken stupor, they announce the next day that drink caused their downfall. It did, but not in the sense they mean; it simply caused their detection.

I am willing, Madam, to pay Old Nick all I owe him on the drink question; but with respect to the place where drink is sold, I confess I grow angry. Your saloon is an incubator of crime. Its invitation to enter is extended to every passer-by. It has more conscious and unconscious agents booming its business than any other institution in the world. When the "sucker" is once within its portals, flattery, obsequious attention, papers, magazines, pictures, music, females, strange curios, expensive and delicate lunches or solid meals, conversations to suit the man and his degree

of intoxication, the drink that is drunk calling for the drink still in the glass or bottle; every known device, every possible art, even force, is used to keep the "sucker" at the bar. Yes; I have seen men forced back into a saloon by the policeman on the beat—not once, but many times—and kept there until their money was all in the cash register or divided between the saloon-keeper, the policeman and a pickpocket. Then I have seen them ejected from the same saloon into the arms of the same policeman, to be arrested on a charge of being drunk and disorderly. I have myself spent a night in a city jail solely for trying to persuade an intoxicated friend to leave a roulette wheel in a saloon.

In your saloon, Madam, the corrupt politician, the ward-heeler and the ballot-box stuffer collect and plan their traitorous work and celebrate their vile achievements. In your saloon, the minds of youths are poisoned and perverted; girls are ruined; families deprived of support; excursions to the Tenderloin planned and commemorated; friends murder friends; brothers slay brothers. In your saloon, every loathsome and depraved vice and every known crime shoot and flourish and go to seed. Your saloon is a canker, an abscess, a tumor, a ringworm, a running sore, a leprosy, a curse, a perverter of all things good and pure and noble and refined and manly and womanly, a debaucher of the body politic, an institution wholly and unequivocally evil.

"Prohibition does not prohibit." Men will drink. As well try to prohibit the reproduction of the human species as the use of intoxicants. But, Madam, I ask

you in the name of reason, moral decency and civic righteousness, what can justify the existence of your saloon? Is it the only means of distributing liquor? Does it exist because it pays high rental to hypocritical church members? Because it is the warp and woof of the dominant party's organization? Because breweries must pay high dividends on watered stock? Because of its ability to furnish perquisites to officials? Because it furnishes a very small portion of the revenue necessary to capture, try, imprison and maintain in prison the criminals it has made, the eighty or ninety per cent. of those convicted of crime?

Do you say your saloon is because the people want it? The people have been cajoled and buncoed, jollied and hoodwinked, flattered and flimflammed, until they do not know what they want or how to get it if they did. The people are still a band of sheep. But if all the men and women who have suffered from your saloon should rise against it, it would not last long enough for its keepers to become sober. If all the blood and tears it has caused to flow, were collected in one pool, every public bar in the land could be sunk therein.

I was about to apologize, Madam, for wandering from my subject, but I have not done so. I have gone to the very heart of conditions that produce criminals. Under your law's protection, it manufactures criminals to be punished by your law for preying on you to obtain the means to keep it going.

Another classification of criminals to which you have no doubt often seen reference in your daily press, is that of "accidental criminals." The fact is, Madam,

no criminal is more an accidental criminal than another. But because some criminals have friends who know and tell about the good qualities they possess and who desire to see them escape legal punishment, they are called "accidental criminals."

All men are born with good and evil passions. Which shall predominate depends on environment and circumstances. The same law which applies to the use and development of muscles and organs of the body, applies also to mental processes. In the struggle for existence, whatever conditions demand a man shall be, that he is or he loses. It is the same in the pursuit of happiness after the struggle for existence is won. In your slums where environment and circumstances teach crime, and opportunities for it are plentiful, it is prevalent. On the Western cattle ranges, where men are taught that to brand a maverick is cunning, horse thieves and cattle rustlers are as numerous as recognized opportunities. Wherever you may find crime, you will find that it is the result of conditions working upon traits of human nature common to all men. Would you designate the criminal products of these conditions as "accidental"?

I am not one of those who believe that the man who only entertains evil thoughts is as guilty as the man who performs evil deeds, for that is to say that the man who has noble aspirations is as praiseworthy as the man who has in addition accomplished noble works. But I do say that as men are instructed by parents, persons, environment and conditions, so they think, and as they think—given the opportunity—so they act. In short, circumstances shape a man for

good or evil to the extent of his natural abilities. Nature is on the side of good, and few men there are, even in a penitentiary, in whom good traits do not predominate. But a little evil makes more noise than much good. A thousand righteous acts are wiped out by one crime. Then you say that the evil in the man predominates. As a matter of fact it does for the moment only.

Circumstances may send a man to prison or to the United States Senate, and even in the Senate he may be an honorable man. All men are born with passions which may become vicious, or which may be dormant until they lose their strength, if circumstances do not occur to give them the mastery over their possessor. Here are two men who have about the same proportion of good and evil passions. To one comes the opportunity, and circumstances furnish the desire, to commit a crime. He commits it and goes to the penitentiary. Then he is one of the "criminal classes." The other, not injuriously influenced by circumstances, and not confronted by an opportunity, lives morally. Is the latter entitled to assume a superior attitude toward the former?

All that is necessary to produce crime is the conjunction of powerful circumstances, a tempting opportunity and a capable individual. This is not to say that, if any other person able to commit a crime I have committed, should be confronted by the same opportunity and impelled by the same circumstances, he would do as I did. There are many thousands who would turn away; but there are also thousands who would go on as I did; and some of those who

would turn away would do things which no power on earth could compel me to do. To illustrate my meaning, take any crime of which you know. There are thousands who have approximately the same nature as your criminal, and any one of them, under the same circumstances, would have committed that crime. No man attains the age of middle life without being in a position to look back and say: "If circumstances had been a little different at such and such a time, I would have been a criminal in the eyes of the law."

There is nothing new about this. It is as old as crime of which I write. Constantly you are taught that "no man is without sin." Yet you classify the criminal who has friends as "accidental," and the punished criminal as a strange species of the *genus homo,* and countenance rubbish about the "criminal classes" as if some men were permanently criminals, as some animals are permanently swine, cats, geese, horses, monkeys, mules or grizzly bears.

The fact is: all men are possible criminals, all criminals possible men. While circumstances determine the acts of the individual, his natural capabilities determine only the degree of their criminality or the degree of their righteousness. The moral tone of your household, dear Madam, all pessimists to the contrary notwithstanding, is not low, and in the struggle for existence under your roof, honesty is usually demanded, good works are manifold and the greater number of conditions call for the best there is in men. But it is also true that, from your sub-cellars to the tops of those gaudy turrets Mr. Dollar has recently added to your dwelling, there are many dark holes and closets

and corners, where the light of your press never penetrates, where your careless servants never sweep and where the fungus of crime springs into being overnight. In a hole beneath the sub-cellars am I, and of that hole I shall speak plainly anon.

How often, Madam, have you heard a plea for mercy for a convicted criminal based upon the assertion that he acted upon the "impulse of the moment"? This phrase, "impulse of the moment," is entitled to an old-age pension and a vine-covered cot in which to spend its future days in peace. It has been used to explain every crime, from petty larceny to the complicated forgery, recording and sale of a mortgage, and from assault and battery to deliberate murder for gain. Obviously, if it means anything, it means that a man, carried away by some momentary passion or desire, and wholly indifferent to consequences, suddenly does something which he only later realizes to be a crime. My experiences among convicts have made it plain to me that very few crimes are committed on the impulse of the moment. Even when they are so committed it must not be forgotten that impulses spring from deep-seated habits of thought, early environment and other circumstances and conditions, making such crime little if any different from others.

And thus, Madam, I think you will find, as you study any classification of offenders against the law, made by the average criminologist, that your criminals are all simply a product of the interaction of personality and environment, in which personality has largely been formed by prior circumstances.

But I do not understand that you have wholly ac-

oted as definite characteristics of the "criminal sses" those which I have been criticising. From all I have been able to gather, you yourself consider that the "criminal classes" consist of all those who are or have been convicts. (A goodly number, Madam!) With a little amplification, this definition will serve my purpose for many succeeding pages, and in them I shall use the phrase without quotation marks.

As there are persons who, through any half-dozen of a thousand circumstances, become paupers, so there are persons who become criminals; as the pauper strives to get out of his class, so does the criminal; as some paupers, discouraged by repeated efforts to rise, become professional beggars, so do some offenders become professional criminals; as a few persons are born in a world of poverty and taught to beg from their earliest years, so a few persons are born to steal; if there be any congenital paupers, there are congenital criminals, and the same may be said of the "accidental" and "impulsive" pauper and criminal. But these classes are not alike in all things. You welcome the pauper who struggles out of his poverty, but when the criminal attempts to quit crime, you put every possible obstacle in his way.

# ABOUT PUNISHMENT

". . . But in these cases,
We still have judgment here; that we but teach
Bloody instructions, which, being taught, return
To plague th' inventor . . ."

—*Macbeth.*

## III

## ABOUT PUNISHMENT

I THINK you will agree with me, Madam, that your punishment can be inflicted for one or more of these reasons only: revenge, correction, repression.

Lord Bacon frankly characterized the law's punishment as revenge. In his day, some two hundred offences in England were punished by death, which, in some cases, was coupled with barbarous cruelty that to-day would shock the civilized world. Since that period, crimes and the severity of punishment have decreased because of greater enlightenment and improved social conditions, which have left fewer breeding places for criminal fungi to poison either the individual or you yourself. Concurrent with this change, have grown up the desire and attempts to justify punishment on other grounds than that of vengeance, until to-day it is asserted that the law is absolutely divorced from revenge.

Although it is doubtless true that the law, in theory, has nothing to do with vengeance, it has given the judge a discretion, which Gibbon called "the first engine of tyranny," and which occasionally results in the infliction of punishments so severe that authoritative writers on criminal subjects denounce them as pure vengeance. Of this phase of punishment I shall have

more to say presently. It is sufficient now to recognize that it is not the intent of the law to be vengeful.

There remain, then, two purposes of punishment: as a corrective and as a deterrent.

Whether or not the punishment you inflict on criminals corrects them or deters them from again offending against your law, you will find fully considered when you read what I have to say about your penitentiary.

The deterrent principle has been recognized by law for ages. The code of Hammurabi is replete with laws bearing penalties that were obviously enforced as deterrents as well as revenge. It is by repression that tyrants have been maintained on their thrones. The bloody Jeffreys, by his infamous "campaign in the west," attempted to deter would-be rebels against James II. During the reign of Henry VIII, 72,000 vagabonds and thieves, petty and great, were hanged. It would seem that Nature also recognizes this principle. If a man break the law in the fire, he is burned; if he break the law in the water, he is drowned; if he break the law in the explosive, he is wounded or blown into atoms; if he break the law of gravitation, by leaping from a height, he is crushed by his own weight.

But to-day, when men are supposed to have a knowledge of human and natural laws and their results, writers are found who make the broad statement that punishment deters men from crime; while others make the contrary but equally broad statement that punishment does not deter men from crime. Neither statement is wholly true. In refutation of

the former appears every criminal in all communities where punishment is enforced; in refutation of the latter is the fact that few crimes are committed when detection is imminent. But somewhere between these two extremes lies the truth.

In the first place, the prescribed punishment, in order to be effective, must be *considered.* It is not enough that the man know that the law prescribes punishment for certain acts. He must consider such punishment when planning or when about to commit a crime. When a man under the absolute domination of some passion, feeling, instinct or sentiment rushes blindly into the commission of a crime, it is evident that no punishment, no matter what its degree of severity, will in any wise deter him.

Further, the punishment prescribed must be *recognized as punishment.* When some wretch, hungry and cold, with no place to lay his head, throws a stone through a window in order to procure food and shelter in a jail, confinement there is not punishment; it is exactly what he wants.

Also, punishment must be acknowledged by the would-be criminal to be *inevitable,* or, if he be cautious, as reasonably probable. Every professional criminal believes himself to be shrewd and cunning enough to evade detection. But, if he fail to do this, his experience teaches him that he can almost always buy immunity from punishment. To do this he usually carries with him "fall money,"—money held in reserve which he will not touch for any other purpose. This buying is done by "squaring" the police, "fixing" juries, obtaining a shrewd but unscrupulous

"mouth-piece" (lawyer), or by any one of numerous other methods with which you are familiar. But should he be convicted and sentenced to the penitentiary in spite of his precautions, he always has various ways of obtaining his release before the expiration of his term. This, however, he believes is a condition far too remote for his consideration. But the professional criminal is not the only one who believes himself able to evade detection. Almost every person who commits a crime, after considering the punishment you prescribe for it, expects never to be caught.

And lastly, Madam, punishment must outweigh all benefits, real or imagined, which the would-be offender may expect to reap from his offence. If a would-be criminal, especially one who has been imprisoned before and has no disgrace to fear, sees an opportunity to steal enough money to make him independent at the loss of only two or three years of liberty, you would be justified in doubting, to say the least, that the threat of such punishment would deter him.

As there is not a single conceivable action which is not performed subject to some law, so there must be a law which may be called one of the laws of repression. It depends on the foregoing; it is this:

*Punishment, which the would-be criminal considers, recognizes as such and acknowledges to be inevitable, or, if he be cautious, as reasonably probable, will deter him from the commission of a crime provided the punishment outweigh the benefits, real or imagined, which he may expect to reap from his meditated offence.*

Except in those very rare instances in which crime is committed on the impulse of the moment, the would-be

criminal considers the punishment you prescribe for it, and, in the great majority of cases, he recognizes it as punishment that will outweigh the expected benefits; but in almost all instances, the criminal does not acknowledge punishment to be inevitable, or, if he be cautious, as even reasonably probable. He plans a way to avoid detection, has confidence in his plans, and proceeds with his crime.

This, then, is the weakness in your penal system: *the uncertainty with which punishment follows crime.* It is not that punishment is not severe enough. The history of criminal law has completely proved that extreme severity of punishment does not result in a like degree of efficacy as a deterrent. This fact and the instances given to prove it are too well known to need further comment. But it may be well to speak of a present-day example often given by those who hold opinions contrary to the lessons taught by history. They say that the severe punishment you inflict for highway robbery has practically done away with the crime. That this crime is of less frequent occurrence to-day than it was several years ago, and that during that time the penalty for it has been severe, there can be no doubt. But these facts bear little or no relation to each other. The criminal of to-day considers highway robbery the safest crime of all to commit. If he can find a man with money enough on his person to make it worth his while to " stick him up," he does not hesitate to do so. But in these times men carry very little money with them, and robbers have learned that the crime does not pay. This is the reason, and the only reason, it is so seldom committed now.

Among criminals, California is reputed to be the most severe State in the Union with offenders against her laws; and yet this reputation does not deter criminals from entering her borders. The warm climate of the southern part appeals strongly to the tramp thief in winter, and men of this class go there in gangs, committing what theft opportunity affords. San Francisco holds peculiar attractions for the well-dressed thief, who likes a gay life, and there he makes his headquarters, journeying to other parts of the State when opportunities become scarce in "The City." This is true of all large cities, and the severity of her judges makes it no less true of San Francisco.

In the early days of a Far West State, a thief who has since become notorious, and who has in his time stolen hundreds of thousands of dollars, was directing the burglary of a large jewelry store next to which was an office of one of your famous express companies. One vault, divided by a thin partition only, was used by both concerns. When the burglars had entered the jewelry store side of the vault and had taken all the valuables it contained, one of the burglars suggested to the leader that they kick a hole in the partition and help themselves to the gold bullion and other property which they supposed were in the express company's side of the vault. But the leader objected, saying that the express company in its search for those who robbed it, "never let up." The express company was not robbed, not because the penalty you then inflicted for such a crime was, as now, severe, but because of the fear of being caught. They had already faced the severe penalty in burglarizing the jew-

elry store side of the vault. The chances of detection would have increased many times had they robbed the express company, whose detectives "never let up."

Not only does the making of punishment specially severe fail to increase proportionately its efficacy as a deterrent, but it also reacts on the community in which you inflict it. When you put the seal of your approval on extreme cruelty, you teach a lesson in cruelty to that large part of the people that believes to be right all things which you do in the name of your law. That law of physics, "to every action there is an equal and opposite reaction," is also a law of penology.

There is another fact which seems to me to be a very important one, and to which I wish to call your attention. All would-be criminals believe that they are as deserving of leniency as any other criminal. They find in many things what they consider to be ample justification of their intended offence. If they consider detection as in any degree probable, they believe they will receive no greater punishment than the least penalty you inflict for the crime they contemplate. They have heard, of course, of the severe punishments you have inflicted in special cases, but they opine that there must have been some special reason for your severity that cannot apply to them. Circumstances having begotten their desire to commit the crime, this desire begets, in turn, hopes and expectations that may be deformed, but that live and influence the would-be offender nevertheless.

And so, Madam, we have another law of repression: "*Punishment as a deterrent from crime can be ef-*

*ficacious only when the benefits, real or imagined, which the would-be criminal may expect to reap from his meditated crime, are outweighed by the* LEAST *punishment which you inflict for that crime.*

For example, there are cities in which the police permit pickpockets to work for a certain per cent. of their loot. This dividing with the police, then, is the least punishment inflicted for the crime of robbery from the person. As it does not outweigh the benefits derived from the crime, it is not a deterrent; it is an encouragement to crime. However, all pickpockets cannot "get in right" with the police. Some of them "take their chances" with the law. If the least punishment the courts inflict for robbery from the person is the minimum penalty of the law, then those men who steal without police protection hope and expect to receive no more, in the event of detection, provided always that they consider punishment as at all probable. But it cannot be insisted upon too strongly that would-be criminals seldom or never expect to be caught. Indeed, this is so true that often pickpockets who can work under the protection of the police prefer to "take their chances" rather than to divide with those of your guardians that are treacherous to you.

And now, since the criminal seldom expects to be caught, and since otherwise the efficacy of punishment as a deterrent is measured by the least punishment you inflict for a given crime, how will you justify those spasmodic outbursts of unusually severe punishments to which you are addicted? Is it not *kind* to say that the excess of such punishments over the least punish-

ments is superfluous? But is it not *true* to say that it is vengeance?

I have been told, Madam, that one of the cardinal principles underlying your method of meting out different degrees of punishment is that the amount of a criminal's theft—the degree of the injury done—has nothing to do with the degree of the penalty, that the amount simply shows the opportunity the criminal had. This, in other words, means that you punish a criminal not only for what he has done, but also for the intent with which he does it. Then you abandon this position by sentencing the big thief, for actually doing what you assumed the little thief intended to do, to a short term in a penitentiary, and then pardoning him before he is there a year! But if any one say that the correct meaning of this principle is that punishment is inflicted for the degree of criminality in the criminal, then I must call your attention to this truth: If a judge were gifted with all the wisdom of the ages, he could not arrive at that exact knowledge of the criminal condition of the offender, which would justify him in pronouncing an exact penalty. Even if he could, as I shall show that your punishment is not a corrective, would it be aught else but vengeance to the degree that it exceeds the least punishment you inflict for that crime? In this connection, it may be well to say something of the task that confronts the conscientious judge when he attempts to decide the length of the term a convicted felon must stay in one of your penitentiaries. It is no reflection on him to say that he simply guesses. He can do nothing else. Five minutes after he sentences a man, he cannot

mention sufficient reasons for giving him five years instead of four or six, or three or seven, or two or eight. Two men from different parts of a State arrive at a penitentiary on the same day to serve terms for burglary. Their records are equally bad. Their crimes are as nearly alike as need be to appear equal in the eyes of the law. Yet one criminal has to serve only two years and the other twelve years. Why?

It would seem that many a man is serving a portion of his sentence to a penitentiary because the judge had committed an offence against his own stomach. I would not, Madam, have you understand me to be wanting in due respect for your courts. I believe that your judges are, more often than not, honest, conscientious men, who take their duties seriously, and earnestly strive to be just. But they are human, and when they are compelled by your law to determine a just term for a man to serve in a penitentiary for a given crime, they are confronted by a task impossible to perform. If the condition of their health influences the judgments they render, it is only natural that it should do so when these judgments are necessarily guesses. This is not their fault; it is the fault of your law. Concerning the giving of this discretion to the officials of your penitentiary instead of to the courts, as you have done in some States by your indeterminate sentence laws, I shall have something to say in its proper place.

As to your system of cumulative punishments, it is simply the enactment into law of that false theory that the more severe the law, the more efficacious it is as a

deterrent. It is, indeed, a false theory. All experience proves it. When men and women, and even boys and girls, were being hanged in England for one or two hundred different offences, crime was more prevalent than it is to-day. The reasoning behind this theory is like that of the ignorant person who drinks a whole bottle of medicine on the supposition that, if a small quantity is good, a large quantity is better. Such reasoning might be expected in the mind of a savage, but not in the mind of a civilized man. When a would-be criminal does not expect to be caught, the degree of your punishment does not influence him in the least. But when the would-be criminal considers that the chances of detection for a crime he contemplates are good, and when the punishment you prescribe for that crime is only severe enough in degree to outweigh all benefits he may expect, then your punishment will be an efficient deterrent. Any punishment, then, which is more severe than is necessary to effect this purpose, is wholly unjustifiable.

And now, Madam, from what has been said in this division of my letter, and since every convicted felon in your domain is a living proof of the insufficiency of your penal system as a preventive of crime, it seems to me you must admit that *punishment alone is not enough.*

"Men are moved by two levers, reward and fear." In your blind worship of punishment, the only lever you can see is that of fear. Would it not be well for you to use the other lever also?

Begotten of the instinct of self-preservation is the

instinct of revenge. When man was a savage in cave and jungle, this instinct was necessary to life. His hope of reward was realized only when he was strong enough to go forth and take what he wanted, and he was restrained from doing this only by fear of the other fellow's strength. Might made right. But in a state of real civilization, men may hope for rewards as a result of merit only. To-day the great force that makes for the progress of mankind is the hope of enjoying better conditions in the struggle for existence and the pursuit of happiness.

Again may I ask you, Madam, if it would not be well for you, in your attempts to prevent crime, to use the lever of reward as well as the lever of fear.

In closing this subject, it might be well to inquire further into the justice of your method of punishing those who offend against your laws. There can be no doubt that you have the right to protect yourself from the criminal. Your system, which, as I shall show, is the infliction of injury in return for injury, will accomplish this to a very small degree. But to injure one member of a community because he has injured another, is obviously to increase your own injury, since you are the sum of all individuals in your domain. Such practice can be justified only on the ground of a greater gain by deterring others from wrongdoing. If, however, it can be shown that there is another available method of dealing with offenders against your laws, that will be more efficacious in protecting you from active and prospective criminals while, at the same time, it will not injure, but will reclaim, them, then there can be no doubt that your

present method of punishing lawbreakers is decidedly unjust.

I shall show you, when I suggest a remedy for the failure of your penal system, a method which, I believe, will accomplish these results.

# ABOUT YOUR PENITENTIARY

"Hath not a Jew eyes? hath not a Jew hands, organs, dimensions, senses, affections, passions? fed with the same food, hurt with the same weapons, subject to the same diseases, healed by the same means, warmed and cooled by the same winter and summer, as a Christian is? If you prick us, do we not bleed? if you tickle us, do we not laugh? if you poison us, do we not die? and if you wrong us, shall we not revenge? If we are like you in the rest, we will resemble you in that. If a Jew wrong a Christian, what is his humility? revenge. If a Christian wrong a Jew, what should his sufferance be by Christian example? why, revenge. The villainy you teach me I will execute; and it shall go hard but I will better the instruction."

—*The Merchant of Venice.*

## IV

## ABOUT YOUR PENITENTIARY

IN a nutshell, your penal system amounts to this: A young man is convicted of theft. You promptly send him to the penitentiary for a term of years. You make no effort whatever to redress the wrong he committed; you simply punish him. During his imprisonment, you teach him constantly that he is a thief. You subject him to the same kind of treatment as you do murderers, incendiaries, patricides, rape-fiends, burglars, forgers, highwaymen and unmentionables, the only difference being in the duration of the treatment, or the term of imprisonment. By the time he is released, he believes himself to be a thief and he lives outside accordingly, or you believe him to be one, and do not allow him to live honestly, if he would. When he is again convicted and his previous imprisonment is made known, the court throws up his hands in holy horror because the criminal before him learned the lesson you so zealously taught him, and therefore he sends him back to your penitentiary for a much longer period to learn other similar lessons still better! This treatment is kept up until the criminal, having learned every form of vice and wickedness, finally dies in prison. Then you say he was incorrigible.

Imagine, Madam, if you can, a nurse going through

a hospital with a demijohn filled with a decoction of milkweed, and, pursuant to the directions of a physician, compelling every patient to take a drink without a glass or a spoon, and without even wiping the mouth of the demijohn between drinks. The man with the broken leg, the consumptive, the typhoid fever patient, the boy with diphtheria, the man with smallpox, all drink from the demijohn, the only difference being in the quantity drunk. One morning the physician, in making his rounds, discovers that the man with a broken leg has smallpox. Angered at him for acquiring a new complaint, the physician prescribes a much longer pull at the demijohn, and this time the patient becomes infected with tuberculosis. Angered again, the physician prescribes a much larger drink of the same decoction, and the consumptive with the broken leg becomes infected with diphtheria, and, in a few days, he dies. Thereupon the physician pronounces him to have been an incorrigible acquirer of human maladies.

If any man go out of one of your penitentiaries and lives as a law-abiding citizen should live, it is because he was so honest and manly before he was placed there, that even your penitentiary could not make him into a rogue. When you have finished reading this part of my letter, you will appreciate the truth of this statement. Indeed, you yourself do not deny it. When you release a man from prison, you say that his education as a convict has made him a menace to you forever. Your police arrest him and claim glory for being able to identify an ex-convict. If they charge him with a crime and say that he has been in a peni-

tentiary, the public at once convict him of that crime in their minds. When the police cannot find any incriminating evidence against him, they run him out of town. In the next city, the police repeat the treatment. Employers of labor shun him when they know him. People everywhere look upon him as a strange monster, and then, when he is finally driven to crime in order to live, you call him incorrigible. In my experience with hundreds of prison officials, I have never found one who looked upon the penitentiary as anything but a place of punishment, or, at the best, as a means of keeping criminals where they cannot commit depredations on you.

Of the fact that penitentiaries do not reform the inmates of them, there are so many proofs constantly about me that I know not which one to use first or how to follow with the others. As many volumes could be written on this subject as I write pages. But the ones most competent to write upon it are the ones who have had the personal experience of doing time, and they are in much the same position as certain of Bion's mariners. You will remember that Bacon says that Bion "was sailing and there fell out a great tempest. Well, the mariners who were wicked and dissolute fellows called upon the gods, but Bion said to them: 'Peace, let them not know you are here.'"

No mere officer of a prison knows the effect of his discipline any more than a despot knows the effect of his laws, and for precisely the same reason. A warden of a penitentiary has absolute power over its inmates. He may, and occasionally he does, inflict the extreme

penalty, and you protect him in so doing. Convicts are taught that every privilege, every favor, every right, every meal depends on the warden's nod. If a convict enjoys the warden's favor, he has numerous privileges that make his lot brighter and easier to bear. If the warden does not like him, he finds evidence of the fact at every turn. The natural result of this condition is that many prisoners do all in their power to gain the warden's approval. From these, he constantly hears that he is the best warden the prison ever had. Those who do not humble themselves before him, know that it is absolutely useless to complain, and they leave the warden and his satellites alone. If, however, one of them is placed in a position where he must speak, he is not only not believed, but he is also punished for *lèse majesté*. Guards and other officers stand in the light reflected from the warden's omnipotence, and they, too, know nothing except what their courtiers see fit to let them know. We, Madam, call these courtiers " stool-pigeons," or informers, and you know how informers have been despised by all men in all ages. Yet they are a natural product of the penitentiary system, and in the eyes of the officials they are the model prisoners. Naturally these men, after years of fawning, will not speak against the penal system, and if the others would, they know that they would immediately have their prison records flouted before the people as evidence of their degeneracy and mendacity, and so they remain silent. Now and then, one bursts forth, but he is usually one whose sufferings have destroyed his discernment of the futility of disclosure and his sense of the proper proportion of

things. But for years hatred has been breeding in his breast; it compels him to speak, and his statement is then only a rambling, incoherent mass of virulence, which, naturally, nobody heeds.

Now, Madam, your penal system is a savage makeshift altogether out of place in the twentieth century; but I have no bitter feelings against the penitentiary officials. They have before them the law's example of punishment, and this they emulate. To my mind the remarkable thing about them is that, with their unlimited power, they abuse it so little. Especially is this strange to me when I consider their lack of culture and refinement. But then, they matured in the outside world, and it is hard to forget fair dealing altogether even when one is clothed with despotic authority and is accountable to none for his actions. I have seen a warden of a penitentiary do an act of kindness and generosity one day, and one of savage cruelty the next. The former was the result of his better nature finding expression even within the walls of a prison; the latter was the result of his worst passions striving to emulate the cruelty of your law. Doubtless, he was satisfied with himself after each action; after the former, for having yielded to a good impulse, after the latter for having performed what he considered his duty in the light of your law's numerous examples.

Convicts in a penitentiary are a handful of humanity under a microscope, and those who handle the microscope see only faults and such virtues as conform to arbitrary prison rules and regulations. There are proportionately as many real men, as many syco-

phants, as many weaklings, as many idlers, as many hustlers, as many—dare I say it? it is true—as many honest men within a penitentiary as without it. But they are stripped of every right and conditions call for only the worst that is in them. Evil thoughts that would be stifled in the outside world are voiced in prison; curses fall as naturally from a convict's lips as amens and hallelujahs from the lips of a Salvation Army lassie; under the strain of hours of solitary or dual confinement daily, natural passions often become perverted in youthful convicts and struggle for supremacy in them; ill cooked and insufficient food deranges their stomachs, resulting in irritability; iron and steel cells sap their vitality; profane and vulgar abuse from guards, brutality, illogical discipline, unjust sentences in the first place,—all these things combine to shrivel the good and augment the evil in them. Manly, open, honest conduct is incompatible with the demands of discipline as it is enforced in your prisons.

Applying the law that whatever conditions demand a man shall be, that he is or he loses, one finds that convicts who avoid punishment and who survive the fiendish discipline of a prison, are those who are cunning and deceitful. Unless a convict be able from the start to conform absolutely to the unnatural, arbitrary prison life, he gets in trouble, and, in a penitentiary, once in trouble, always in trouble.

Your prison officials give a convict no encouragement to improve his mind, to better himself in any way, and they will not assist him when he shows an inclination to do so. I once heard a convict in a penitentiary in which two prisoners occupied each cell, ask

to be moved into a cell with a man who had agreed to instruct him in the elementary branches of learning. The reply he received was; "This ain't no school, it's er penitentiary." But if a convict become discouraged in trying to find a wholesome outlet for his energy, and grow resentful, these same officials are at once zealous in the performance of their imagined duty.

In order best to depict your penitentiary, perhaps I had better take you in the wake of criminals who serve time therein. Ask Justice to accompany you, Madam, and we shall begin with a boy who is serving his first sentence for his first offence.

John Williams, a youth of seventeen, steals some old copper and brass to the value of thirty-five dollars. He is arrested while trying to dispose of it. When he is taken before the chief of police, he is truly penitent, and the whole miserable tale of his crime bursts from his lips. The chief cuts short all explanations and excuses, makes notes of all incriminating admissions and orders the youth locked up in a cell. When the door clangs on that boy, his heart is bursting with grief. The full realization of his offence surges over him, and shame and self-abasement merge into a scourge that gives his mind no peace. The next day he goes before a magistrate and is bound over to the criminal court, which will sit six months hence. He is taken to the county jail to await trial. He is still penitent when he is thrown into a corridor with other prisoners. They talk with him long enough to "get his measure," and then leave him to his grief. In a little while, his natural buoyancy

begins to assert itself, his appetite returns and he looks for some kind of diversion. Before the day of his trial arrives, he knows all the prisoners in his corridor, why they are there, how many are likely to go with him to the penitentiary and all the jail gossip and argot. Comparing himself with others about him, he finds that he is not so badly off after all. He might be imprisoned for highway robbery or murder, as are his two cellmates. Trial day comes, and his attitude in court is not penitent, because a robust nature has rebelled against constant penitence and, knowing that he must go to the penitentiary anyway, he has determined to take his punishment "without blubbering."

The court notices that John Williams has the usual criminal appearance and attitude. He may or he may not consider that these are the result of six months in jail; but when John pleads guilty and murmurs a few inaudible words of sorrow, he gives him three years in the penitentiary, and then turns to the prosecuting attorney to inquire if there are any other *ex-parte* matters to be heard this morning. In the meantime, John is whisked back into jail. He was in the courtroom just two minutes. To his curious fellow prisoners, he remarks, as soon as he is in his corridor: "Gee, the old guy done it easy! T'ree years!"

In a few days, some eight or ten newly-made convicts are handcuffed to a chain and marched through the city to the railway station under an armed escort. Williams is among them. The handcuffs are not removed until the men arrive within the penitentiary. They are all legally dead from the moment the judge pronounces sentence. They have no rights whatever.

They are the absolute property of the State. The men in whose charge they are may do anything to them that superior force makes possible. They are all treated as desperate men capable of any crime. Their lives, their health, their very minds are in the keeping of your officers who are responsible to no one. These officers believe themselves to be instruments of your law's punishment, and the less humane their treatment of prisoners is, the better they think they have performed their duty. I have been in the charge of only one officer who did not delight in advertising the fact that he was the custodian of a prisoner, and in trying to make it appear that his captive was a desperate, incorrigible rogue, who would kill everybody within reach, if it were not for the presence of a man who understood the "criminal nature." This is the attitude prison officials assume before visitors, and when the latter express surprise that the convicts are so orderly and well behaved, the former remark: "Oh, we know how to handle them; that's our business."

Now, Johnnie Williams is able to observe and think, even when he is shaved and shorn, numbered and clothed in stripes. He notices all these things. He is a healthy youth with a lively sense of humor, and he laughs at the solemn farce enacted by the prison officials. But one day the farce centres in him. He is placed in the dungeon for seventy-two hours without food, because he asked the convict in the cell next to his for some tobacco! For a few days after this experience he does not laugh, but after a while he regains something of his lost buoyancy, when he is caught humming softly to himself in his cell. Again

he goes to the dungeon, and the prison guards now judge him to be altogether too "fresh"; so they proceed to mould him according to their conception of a pattern convict. He is watched constantly, and not an opportunity to reprimand or to punish him passes unseized.

Do you suppose, Madam, he is given a trial or a hearing before the warden who prescribes his punishment? Hardly. Here is an instance. One day, John was marching in lockstep into the cellhouse, when he espied a full-blown rose on a bush near the door. Just as he entered he said to the man in front of him: "Gee, that's a purty rose!" Immediately inside the door and to one side stood a guard, who had stationed himself there out of sight to discover prisoners in the act of talking. He overheard John's remark, jotted down his number, and that night when John came in from work he was ordered taken to the dungeon without even knowing why. Nor did he find out until after he was released, when he learned that the guard in question had reported twelve men whom he had heard talking as they crossed the threshold. He remembered the remark he had made about the rose, and roses are no longer "purty" in his sight.

This is his last experience in the dungeon for five or six months. His youthful spirits dry up, and he becomes timid or sullen in the presence of officers. He does his work quietly; obeys all orders slowly, but well enough to escape a reprimand; reads in his cell to-night, and to-morrow night cannot tell what he was reading; goes to chapel and assumes an attentive attitude, without hearing the sermon or lecture, and al-

ways in his dreams and in every conscious moment there is an undercurrent of hatred and despair that insidiously attacks his good impulses, his thoughts, his sense of humor, his memory, his very reason. But one day a guard stops at his cell. It is John's old enemy, the one who locked him in the dungeon for asking his neighbor for some tobacco, the one who played eavesdropper inside the cellhouse door and reported him for spontaneously admiring a rose. This guard has been observing John of late, and he concludes that John is *now* trying to be a good prisoner! He stops and tells him so, and speaks kindly and encouragingly to him and sympathizes with him, and poor John, who has been starving mentally for one word of human kindness, actually falls into the guard's view of prison life, admits he has been a bad boy, promises to behave himself well the rest of his time and, when the guard goes away, he leaves John flushed and smiling and even happy.

The next morning John goes into the dining-room for breakfast. The meals have been fairly good of late, but this morning the breakfast is not fit for a human stomach. The bread is sour and the mush is not sufficiently cooked, and these compose his breakfast. He eats sparingly, but does not join in the murmurings he hears around him. At noon he is ravenously hungry. The bread is still sour, but he must eat it to satisfy his appetite. He eats much of the sodden food and it lies heavy on his stomach, making him cross and irritable. He goes to work. The convict working next to him is in the same mood. Without clearly knowing why, these two begin to

quarrel. In a moment one of them strikes a blow, then they clinch and struggle. Instantly the guard in the cage above them levels his rifle and fires, shooting Williams in the thigh. A stretcher is brought and Williams is carried to the hospital.

His opponent is taken into the bathroom in the cellhouse, stripped to the skin and chained to an iron cross. Then a stream of water with an enormous pressure is played over him until he is black and blue from head to foot, while he looks with wildly staring eyes at the fiends who are thus enforcing discipline. His piteous cries fill the cellhouse; but soon they cease, for the water is played on the tenderest portion of his body until he faints.

The prison physician removes the bullet from Williams's thigh, dresses the wound and has him removed to a cot in the prison hospital until he is thoroughly recovered. In the hospital, Williams is under the control of men who have a sane conception of their duties and responsibilities to humankind, and there he is treated kindly. His food is far better than the regular prison fare, he sleeps between sheets, he converses with other patients, reads, laughs and begins to feel like a human being again. By chance, he suffered only a flesh wound. His strong constitution and good health make short work of healing it. In a little while he is discharged from the hospital. He is then taken before the chief turnkey and informed in a gruff manner that no further punishment will be administered to him, but that if he gets into another fight, he will have to suffer the full consequences of it. He is told that he has been a bad prisoner ever since

he has been in the institution, and that if he does not behave better, he may expect to be hosed for every offence. They have decided to put him to work again and to give him one more chance; but if he wishes to live until he gets outside, he had better look to his conduct.

Again the smile is gone from John's countenance, his eyes become dull and his demeanor sullen, the utter hopelessness of his position confronts him, and hatred of everybody and everything connected with your law and its enforcement, supplants the lightheartedness of youth. He becomes suspicious of everybody and of every generous action. He never speaks except with a curse; he abandons himself to impotent expressions of what he would like to do to prison officials and judges and officers generally. Murder is in his heart. He resolves to quit the State as soon as he is released, and to make somebody pay for the time he has lost and the treatment he has received in prison. His gentle emotions, dead from starvation, and his scruples crushed out of him, he is in a fit condition to violate every rule and regulation of your prison. During the remainder of his term, he is consigned to the dungeon numerous times for trivial offences, is hosed for fighting, and is treated in every way worse than any beast would be treated in any community that has a society for the prevention of cruelty to animals. At last he is freed, and as he goes out the gate, prison officials shake their heads and say that he will be in jail again in thirty days. 'Tis true he will be, and the fact that he has been in one of your prisons, Madam, will be considered by the court as an evidence of his incor-

rigibility. The court will say that that imprisonment should have been a lesson to him for the rest of his life!

Madam, when you have a prisoner absolutely in your charge and at your mercy for three years, are you in no way responsible for the change that takes place in his nature? When you daily and hourly instruct him in the doctrine that superior force is its own justification of its deeds; when you constantly instil into his mind that he is a criminal; when you punish him every moment of his term in prison; when, during all that time, you give him only one kind word; when you deprive him of all intercourse with kindly, generous or ennobling persons; when you, in short, treat him as only perverted intelligence prompts man to treat man, can you expect him to change for the better? Can you expect him to leave all this cruelty and crime behind him, to forget his sufferings, forgive the unjust and brutal punishments he has undergone, and go forth into the world sweet-tempered, loving, strong, manly, patient and able and willing to face your doubts and hatred, in order to gain your permission—grudgingly given—to live aright? No, Madam, you do not expect this, but that child of yours, the law, does, while at the same time it deprives the released convict of many privileges of which the loss of citizenship is the least. No; you do not expect it. You give the ex-convict no chance to live aright, when you know him.

Had John Williams told his miserable story to a Lindsey, instead of to a chief of police, do you suppose he would have been confirmed in crime by your

penitentiary? True, the revengeful and spiteful of your citizens would have been disappointed; but which method is better for you, Madam?

It was not alone the punishments which John suffered in prison that consigned him to a life of crime. In the penitentiary, there is a bond of sympathy among the convicts, and whatever injustice one suffers, almost all the others feel. Moreover, he was placed among convicts of all ages and of all degrees of wickedness. From his associates he learned many things about thievery of the petty sort, and he soon dropped into the argot of tramp thieves, their habits of thought and their views of life. From the really clever thief who goes about his business calmly reducing chances of detection to a minimum, and planning and executing his plans with sagacity and courage, John learned nothing. These men do not tell the secrets of their calling, for the reason that the secrecy of their methods is their best protection. Moreover, they know that thievery in any form does not pay, and few of them wish to direct boys into a life that leads only to misery in the end.

In the next penitentiary of which John is an inmate, he may begin to think and plan for himself. Should he do so, he will have more freedom between prison terms; but unless some one independent of your law's officials and your penitentiary interests himself in John, the latter will be buried in a convict graveyard.

Do I hear you say that in many of your penitentiaries you have the "silent system," under which convicts cannot communicate with each other? Do

you suppose any rule you can make will stop the human tongue? I served time under the "silent system," and I talked to a fellow convict while a guard was twenty-five feet away facing me and watching me while I was talking. A man learns how to talk without perceptible movements of his lips. Conditions demand that he learn this and he does. You can pervert or scatter energy, but you cannot destroy it. Under the "silent system," your prison officials simply compel a man to talk in almost inaudible tones, with hanging head and watchful eyes,—habits that cling to him for years after his discharge when he has served a long term, for months when he has served a short term. The "silent system" is unnatural and makes a virtue a crime. It is another of those stupid rules that fail utterly in their purpose, and serve, at last, only to develop further a low order of cunning and to destroy a convict's perception of the proper proportion of things. Madam, put a string around your finger to remind you ever of this: *No rule or law that opposes nature can accomplish good.* Error cannot stand alone. The "silent system" is punishment to support punishment, a fallacy to support a wrong, a lie to support a lie, a fiendish makeshift to support a savage custom. It is the finishing touch to the refined cruelty which strides beside savagery in your penitentiaries.

Recently in this prison, several of us were discussing the effect of the "silent system" on convicts, and all of us, except one, agreed it was highly injurious. He said he knew a man who had served twelve years under the "silent system" strictly enforced, and it had

not harmed him. I asked what this man did when he got out?

"Oh, he went back to Grifting."

"And there was nothing about him that showed any evil effects from the twelve years of silence?" I asked.

"Why, no; he was just a little nutty and had a quiet desperation about him all the time; that was all."

I sadly turned away. Twelve years under the absolute control of your officials, and yet when he was released he was still a thief, and had the added graces of a deranged mind and a quiet desperation—that was all!

But let us proceed. Think you the case of John Williams is unusual? Then we shall follow men who served time without being even reprimanded during their terms.

Fred Lee is a dipsomaniac. Under the influence of his mania, he forges a check and receives four years in prison. When he arrives there he is sober. He is a man of intelligence and a capable book-keeper. He has been taught all his life to respect your law and its institutions. He knows that his crime was committed while he was irresponsible for his actions; but it has been explained to him that your law says that "drunkenness is no excuse for crime"; so he tries to persuade himself that he is suffering a deserved punishment. Nevertheless, he reviews all the circumstances in connection with his debauch, and he is unable to understand how he could have done the things he did do, or to reconcile these things with his real nature, his aspirations, his principles, his likes and his

dislikes. He is still conscious of the fact that some strange, unseen force impelled him on to deeds that have blighted his life, and he now has but one purpose, and that is to demonstrate to the penitentiary authorities that he is not a real criminal, and, when his term expires, he hopes to be able to show the friends of other days that their confidence in him was not misplaced and that he is still worthy of their trust and friendship. He does not realize that his so-called friends put him out of their lives the moment he was convicted, and that they do not care a puff of smoke whether he redeems himself or becomes utterly depraved. So far as they are concerned, they thought him a man, but now they know him for a monster; so they drop him. A few friends of his family write to the prison authorities in his behalf and are very careful to explain that they do it for his family's sake. Everybody tells him that, if he will obey the rules and give the officials no trouble, he will get along all right and will never feel the rigors of penitentiary discipline. The hope of securing clerical work is also held out to him, and he soon learns that convicts who are employed in the penitentiary office are given better food than the others, and accorded many privileges that make prison life more easily borne. He is not in prison long until a convict is pardoned, or has his sentence commuted, and then the hope of receiving executive clemency comes to him, and, all things considered, he resolves that, come what may, he will not get into any trouble whatever.

He has none of the gestures and knows little of the slang of the underworld. He is patient, gentlemanly

and, to the officers, respectful. They know he comes from a good family and that prisoners of his kind seldom or never give them any trouble; so they do not look for it from him. In a month or two, an easy job in the kitchen, dining-room, hospital or one of the wings of the cellhouse, is found for him. When he meets officials alone, they give him a pleasant word or a cheery good-morning. He has the popular conception of convicts in general, and believes himself out of place among them, although he does not patronize or spurn them. He minds his own business and neither informs on his fellows nor asks questions about their affairs. A convict is mercilessly flogged or hosed and, at the time the wretch is voicing his suffering in cries, he feels pity for the offender and shudders at the brutality; but these punishments are inflicted very smoothly, and ten minutes afterwards every evidence of them is cleared away, even the marks on the sufferer are covered by his clothes. Lee meets a guard who mentions the punishment as if it had been administered to some one beyond redemption and unworthy of consideration. Lee has his own troubles, other convicts have theirs, work is to be done, and he, and all others who have not themselves suffered, soon forget the punishment, or, rather, they think they do. But each time a convict is punished, Lee becomes hardened to human suffering, and the less he suffers himself, the more he unconsciously ignores the suffering of others. Moreover, he still believes the general run of convicts to be hardly human. Their coarse speech and rough manners, their contempt for your law, for your institutions and for your polite customs, which

are the result of imprisonment, repel him because he does not realize the cause.

All about him he hears murmurings against the injustice of your system of dealing with criminals and crime, against the officers, the prison discipline and the judges who sentence offenders. He is in an atmosphere of hatred, misery, suffering, crime and despair; but, for a time, he ignores it. The officers seem to recognize in Lee a sympathizer with their woes, because he is now in the prison office and his duties constantly bring him in contact with them. They tell him their troubles and he listens patiently and makes perfunctory, noncommittal comments. His conscience and reason tell him the officers are at times in the wrong, but his love of liberty and hope for executive clemency, which latter the officers constantly feed, forbid him to speak his mind. He tries to persuade himself that the officials are right, that this constant fault-finding and this hatred are evidences of the general depravity of convicts; but, as he remains in prison, he begins to learn that many complaints which officers ignore are really justifiable.

He sees a dozen men come into the penitentiary at different times to serve only one year for forgery, and he learns that some of them are professional criminals. This discovery leads him to ask himself why the law should give one man one year and another man four years for the same offence. He makes inquiries and learns that the one-year man was defended by a saloon-keeper politician. He compares the influence of this rascal with that of the honorable men who befriended him for his family's sake. He asks

himself these questions: "Were the judge and prosecuting attorney stern and rigid with me in order to show my law-respecting friends that they could not be moved from the performance of their duty by any influence? Were the same officials lenient with another offender in order to satisfy a corrupt politician who, they knew, would not take 'no' for an answer?"

Whatever replies he may make, Madam, to these questions, I leave you to judge. And since he cannot keep himself aloof always from his surroundings, he, too, soon becomes hateful. His penitence, sincere though it was at first, cannot last forever. Time removes his crime farther and farther from his thoughts. And it is well that men forget their mistakes and their wrongdoing, else one would travel many a mile without seeing a smile. As he realizes the enormity of his punishment compared with the triviality of his offence, he regains something of his former self-respect. He knows that he is honest to-day, that, in his right mind, he was never dishonest. He thinks of the thieves and rogues who run dishonest gambling games in his own city with the full knowledge of the same judge and prosecuting attorney that were so zealous in enforcing the law in his case. He knows of many embezzlers and thieves and forgers who are in the penitentiary because these men were able to ply their nefarious calling, not only in defiance of your law, but also under the protection of the administrators of it. He sees two or three of them come to visit the prison of their victims, and he notices that the warden obsequiously shows them through his menagerie of misery, drop-

ping his work to give them his personal attention. It opens his eyes a little to the frightful inconsistency of the system, when he sees its director punish a thief and fawn on the creator of that thief. Gradually he penetrates the beautiful covering of the Dead Sea fruit called your penal system and, as he beholds the ashes within, he shudders, and hatred for the whole degrading, illogical methods you have of dealing with crime, slowly enters his soul and takes possession.

Outwardly, he does not show what inwardly he feels, but gradually he comes to realize more and more that he is a mere stage property in a solemn farce which is constantly on for dress rehearsal, but never staged before the public. 'Tis well for its perpetuity, Madam, that it is not, else the barbarities of its scenes would be the cause of its destruction.

One day, pondering over his case, he asks himself: "Why, if I were the criminal monster the law attempts to paint me, would I not have used my abilities to acquire a sum of money worth while?" Then he proceeds to think of some crime that would net him such a sum. In a day he has thought of a dozen which his knowledge of business tells him could not fail once in a thousand times. He presents them to a fellow convict, who weighs and considers them, and pronounces them flawless from a criminal standpoint. For a few days he diverts himself by perfecting these and other schemes. Then his real nature asserts itself, and he dismisses such schemes from his mind. He realizes now that he must never again allow thoughts of crime to enter his mind and poison it, or to subject himself to the temptations that wealth offers, no matter how

it is gained. But the original thought is still there, and no legal sophistry will dispel it; he still feels that had he been in truth criminally disposed, he would have procured a sum worth while, and not a petty amount to satisfy an insane craving for liquor. He mentions this thought to one of the board of prison managers who is one day in his office in a talkative mood. The member replies:

"No, no. That will not do, that will not do at all. The amount of the forgery—whether for twenty dollars or for twenty thousand dollars—makes no difference. If for twenty dollars, it simply shows that it suited the forger's convenience to get that sum. I think this is the opinion of every right-thinking man in the State."

Lee remembers he is a convict, that this member can make it impossible for him to secure executive clemency, so he says nothing. But in his heart he hates the merciless sophistry that presumes that every offender against the law has an all-absorbing passion to commit crime whenever he has an opportunity. Later, in his calm moments, he follows the member's argument to its end. If a man commit a crime, he is a criminal; if a criminal, he is capable of any crime; if he commit a petty offence, it is because an opportunity for the perpetration of a larger crime could not be found. Therefore he is sent to the penitentiary for a term of years commensurate with what he might have done, had the occasion presented itself, and not with what he did do. The idea of reforming this man has no place in the argument any more than reformation has a place among the purposes of the peni-

tentiary. The criminal is simply punished. You say this punishment is not administered as revenge, but to deter others from crime. It does not and cannot deter the criminal himself from further crime, because it simply hardens him and confirms him in crime, unless he be so honest in the first place, that he rises above his surroundings, or receives so short a term that he is freed before the penitentiary has had time to sow in his mind the seeds of crime, bitterness and hatred. Therefore this punishment is, in its final analysis, simply a deterrent for others. Then why in the name of common sense give John Doe one year, Richard Roe twenty years and Fred Lee four years for the same offence? If a criminal be capable of any crime, then why turn him loose on some community after instructing him for one, two, four or twenty years that he is such a rogue and incorrigible.

The fact is, legal reasoning is concise, clean-cut, logical, unassailable and really beautiful—as a theory. The law of gravitation is exact, precise and undisputed; but attach a parachute to a falling body, and the nearer it comes to earth the more slowly it descends. If one make calculations on falling bodies according to the law of gravitation, without considering atmospheric pressure, one's calculations are erroneous, as are also those based on the theory of your law without taking into account things as they are. It might be well to ask you, Madam, just here, if your law punish a man for what he might do, instead of what he does do, why not hang the man who makes a murderous assault on another, if he be *capable* of killing his victim? And why not reward a man for what

he is capable of doing that is worthy, instead of what he does do?

Up to the moment of conviction your law is as fair, just, equitable and impartial as human reason can make it. But once men are convicted, they are cast without its pale. It seems that they are then supposed to be "blocks, stones, worse than senseless things," which punishment and cruelty will carve into sweet-tempered, loving, honest, industrious citizens; although this carving is done without law or reason, in a sort of hit-or-miss jumble of knives representing vengeance, guesses, suspicion, indifference and doubt. After the jury's verdict of guilt, all is chaos, in which punishment strides, destroying order wherever it appears. Into this chaos, your law does not enter except to support punishment.

Fred Lee observes all these things and, realizing that they have produced the conditions under which he finds himself, he does not gain in respect for the penal system or that part of your law which supports it.

Now he begins to review the offences for which convicts have been punished since he has been in prison. He finds that practically none of them shows depravity or desperation or incorrigibility or fiendish propensities such as the outside world is led to believe they do show; but rather are they all trivial in character, and he acknowledges to himself that had he been under the same strict discipline as the body of the convicts, he would have been punished many times for talking and, perhaps, even for fighting. He recognizes that where men have no choice whatever of their associates, the remarkable thing is that so few of them quar-

rel and fight. He begins to sympathize with the convicts who are considered beyond redemption. This feeling soon leads him to converse with them when he has an opportunity, and he discovers that many of them are intelligent, well-informed men, keen judges of human nature; but, confronted with years of merciless penal servitude, they live between two emotions,—hatred of everybody and everything connected with your institutions, and hope of liberty. The former, they cover up or honestly try to overcome; the latter they feed in every conceivable manner, using even the smallest morsels obtainable. For, indeed, it is true of them that the "miserable have no other medicine, but only hope." Lee discerns the presence of hope in the most unlikely breast and marvels how some of these men can, year in and year out, hope for mercy that never comes and yet still hope. He sees that hope is the balance-wheel of their reason and the governor of their conduct, and that, when they momentarily despair, discipline is disturbed. He learns that every individual under your prison discipline provides an example of arrested development; that the monotony of this system of constraint kills all useful curiosity, ambition, pride of purpose and desire to do; that it smothers the very traits of human nature which are its own safeguards against false excitements. At last, he realizes that whatever the intentions of your law may be, the practical working of the system is characterized by vengeance and utter stupidity. The more he considers the whole system, the better he realizes that stupidity is the one word best adapted to describe its source. And then, closing his eyes and ears to

the miserable conditions around him, he resolves to emulate the stern selfishness he now sees in mankind and to look out for Fred Lee from this time forth. To strengthen this resolution (which he soon will break) he receives word that the board of pardons has acted adversely on his petition for clemency.

Shortly before he is discharged, the extreme penalty is inflicted within the penitentiary walls. The victim had hoped for a reprieve up to the hour of execution. It is a disagreeable task for some of the prison authorities; but when it is done, they go about their affairs with an obvious selfconsciousness of duty well performed. Lee notices also that now they are more hardened than ever to human suffering.

As Fred Lee departs from the penitentiary, officers and convicts shake his hand and wish him good luck. He returns to his one time friends and finds that they no longer have any regard for him. They consider that he must be marvellously wicked, coming fresh from prison. He looks for work and, after repeated failures and discouragements, he finally secures employment under a man who takes advantage of his disgrace to secure a first-class man at a third-class price. He understands the situation, but he tries to be contented, hoping that in time he can obtain a position where the wages shall be commensurate with his work and his ability. He tells himself that it has been nearly four years since he committed his only crime, that during the time since he has filled a position of trust—even though it was in the penitentiary—and that whatever evil tendencies he may have had prior to his incarceration, they are now under his control.

But you, Madam, have no faith in your own institutions. You demand that Lee still assume a penitent attitude for an offence for which he has already been severely punished and which is four years old, and that he begin now just where he would have begun had you not imprisoned him. You patronize him and say in a supercilious manner: "Oh, you are not bad at heart, Lee; but you must prove you are worthy of confidence before we give it to you." Then you give him no opportunity to make this demonstration. He finds that he is constantly watched, not as other employés are, but as if the watcher were disappointed every time he proved to be not wanting. One day there is a shortage in the cash. Lee has nothing to do with the firm's money, no fear; they would not trust him with that. But, as he comes from the penitentiary, he is supposed to possess all manner of dark secrets for acquiring other people's property, and the manager and the cashier cast knowing and suspicious glances at him. All his pride and conscious innocence prompt him to quit his position at once. But he knows this would never do. That night he does not sleep. He wonders if he is always to be treated as a thief. Then the bitterness in him speaks:

"I never have been a thief. It is only the law that has branded me as one. I know in my heart that I can look any man in the eye, conscious that my integrity is as staunch as his; but the law says I am a thief. For four years it taught me that I am a thief. I return to my friends, and they treat me as if I were a thief. I find employment, and my employers regard me as a thief. Wherever I go, I find a finger pointed

at me and I hear a voice say: 'Thief!' I know that this whole miserable system is illogical, cowardly, brutal and wholly unjustifiable. I paid the penalty the law demanded, and now I find that society hates me for having done so. Had I been smart and escaped the penitentiary, that same society would have wined and dined me. This is a brutal, selfish world in which might makes right and in which justice is blind, indeed. Well, I might just as well conform to its customs. I might as well have the game as the name. What is the use of a man wasting his years in trying to propitiate society when society will not be propitiated?"

But again his real nature and his revulsion for crime come to his rescue, and he resolves that he will not become a criminal. The schemes he thought of in prison recur to him, but he dismisses them. The next night he sleeps little or not at all and, on the following morning—torn by a dozen conflicting emotions—he meets an old acquaintance who invites him to drink. This invitation he has refused a hundred times since his release, but now, in the clutches of despair, he accepts it. Resolving that no matter what happens, he will not practise his tempting schemes for sudden wealth, he continues to drink all that day, for the first taste of liquor has maddened him and reawakened his mania. He does not even know there is such a thing as dipsomania; but in the latter stages of his debauch he knows that all he wants is liquor. His thoughts become muddled; but through them are constantly moving memories of the penitentiary as a hateful institution, and he enlarges on his own suffer-

ing; but still promises himself that he will not commit any crime. Soon his money is gone. More liquor he must have. In this hour of insane craving for intoxicants, he recalls society's attitude toward him, his suffering in prison and the name he bears without enjoying the game, and the old prison-made hatred for your law surges over him. Then he gives a check which he has a drunken notion he can take up before it reaches the bank, procures more liquor, forgets about the check, is arrested, and later sent back to the penitentiary.

What did your penitentiary do for Fred Lee, Madam? Did it cure him of dipsomania? Did it teach him to respect your institutions and the justice of your criminal laws? Did it teach him that he possessed the qualities of true manhood? Did it prepare him in any way to combat your hatred and suspicions when he should be released? Did it make any effort whatever to show him the cause of his downfall and how to avoid a repetition of it? Did it make him a better man than he was before? No; it did none of these things. It filled him with hatred for your institutions and your laws. It gave him a negative sense of honor, that is, it placed him on the defensive, caused him to uphold his manhood by servile nonresistance, and compelled him to acquiesce in the patronizingly expressed opinion that he was *not bad*. It taught him that he was sent to the penitentiary because he was a criminal, and as long as he was there he was constantly taught that he was a criminal. On his release, he found that you believed him to be still a criminal.

"In an atmosphere of suspicion, men shrivel up," some one has said. It was in this atmosphere, behind bars and in the outside world, that Lee shriveled up. You sent him into the world branded as a criminal and demanded that he should secure employment as an honest man in spite of his brand. I do not justify his surrender, especially after so brief a struggle, but, Madam, I would ask you to remember that all men are not made of the stuff of heroes. Lee was decidedly an ordinary man. In this respect, he has many thousands of companions. I have given you only a glimpse of his many conflicting emotions that were born of the penitentiary. The constant undercurrent of his thoughts was of crime, and this undercurrent also had its source in the penitentiary. Only he who has experienced them can measure the influence of such thoughts and emotions on a sensitive mind. To others, they may seem trivial and easily overcome; but the fact that they have a potent influence for evil, is daily demonstrated by the return of such men to prison.

Right here I wish to say that had Lee been discharged upon the expiration of one year of his sentence, he would doubtless have gone out of the penitentiary without knowing much about it, as do almost all short-term men who are befriended by officers through outside influence, and that, although he would not have been injured so much by his imprisonment, that injury would still have been sufficient to destroy his self-respect and his faith in your institutions, and to impregnate his mind with thoughts of crime.

Now, Madam, we shall leave Fred Lee and observe a professional criminal. Tom Jones is a young man

who has been raised on the streets of your cities. In his boyhood he sold papers, blacked boots and stole everything he could get his hands on. He has no fear of the police, because he has outwitted them so constantly that he has nothing but contempt for their abilities. He believes them to be his personal enemies, and he knows every one of them and can tell you accurately which ones are "grifters" and which ones are not. He knows all their tricks and methods. He is light-hearted, quick-witted, mischievous, fearless, ingenious and, of necessity, an actor. He has firm principles that forbid him to "snitch" on a "pal," or to be unfair in dividing plunder, or to be selfish with any of the gang. He will risk much to do a favor for any man or boy he believes to be "square," that is, not an informer. He will commit almost any crime against property, if the chances of detection are not too great. He knows how to act in an emergency, and he is seldom or never "rattled." He delights in crime because of the adventures it promises and the opportunities it gives to exercise and display his cunning and resourcefulness. Not one of these traits that might not be of great value, were his energy directed properly. He is a keen judge of human nature; he will listen to one attentively, and in a trice he will have one's measure and will openly express his opinions.

When Tom Jones arrives in prison to serve five years, he knows just what to do. He has talked with other youths who have served time therein, and he already knows many of the convicts. The rules, the privileges, the good jobs, the fair guards and the "jobbers," the star "stool pigeons," and the modes of

punishment are all known to him. He gives a fictitious name as his true name, because officials know he is under an "alias." He lies about his place of birth, parentage, age and everything that would aid in identification; but he answers all questions ingenuously. He is active, bright and willing, and he soon gets a job as "sweeper," or caretaker, in one of the wings. Here he is in his element. He has many chances to converse with professional thieves, burglars, pickpockets and criminals of all kinds. In a week or two he knows every prisoner in his wing and many in the other wings. He has found a way to get extra food for himself from the convict kitchen, and later he will get some from the officers' kitchen.

He reads all the magazines that come into his wing; he has made a friend of the librarian, and can get any book he wishes. Soon he has violated every rule of the prison that can be violated by stealth. He is politeness itself to guards—when they are near. But he knows their every weakness and mimics them when they are absent. He makes it a rule never to do a thing out of the way unless he knows just where the guard is at the time; so he is never caught. He sees the guard coming his way, and works diligently until the guard is right by his side. Then he starts as if he did not know the guard was even in the wing, and the latter goes away convinced that Tommy Jones is a model prisoner. The guard is flattered into believing that he was able to approach Tommy without the latter's knowledge, and Tommy is fully aware of the fact.

In countless other ways, Tommy plays with the of-

ficials, because he understands them and their point of view perfectly. So respectful is he to them, and, to all appearances, so mindful of discipline, that they give him one good job after another, and Tommy finally concludes that he is the "smartest ever." The cruelty he sees about him does not make a deep impression on him, because he is used to seeing it and he is schooled to consider it as a mere incident in the life of a thief who is simple enough to be caught. But he cannot escape its influence altogether, so he resolves to "go the limit" (kill an arresting officer, if necessary) before allowing himself to be arrested again.

In short, Madam, Tommy Jones comes in a clever thief and goes out a cleverer one. Your penitentiary has educated him in new methods of stealing and of avoiding detection, and has crystallized his habits of thought and his conduct. It has not in the least deterred him from crime. It has simply made him contemptuous of your penal system, and he believes he was caught because he was careless. In the future he will be more careful.

Milton refers to the lore dished up to university undergraduates in his day as an "asinine feast of sowthistles," and we are told by a modern authority that pupils in the grammar schools fared no better, that, before the advent of Comenius, "if a child did not advance, the teacher held himself no way responsible. The lad was adjudged a dullard, and left to remain in his stupidity with the rest of the blockhead world." To-day, if a man when, released from your custody, reverts to crime, you hold yourself no way responsible. You adjudge him an incorrigible criminal, and con-

demn him to spend the remainder of his life with the rest of the criminal world.

A few years ago I served time in another penitentiary with just such a youth as Tommy Jones, and I had been here but a short time when he was brought in for committing a daring burglary in broad daylight, that would have been successful but for the carelessness of a partner in disposing of some of the plunder. From the first, the officers looked upon him as a desperate man. I knew that if his energies were only directed in the proper channels, he would be a credit to any community. I believe that to reclaim such a man, it is necessary to assist him to gain an all-absorbing, worthy purpose in life, and to show him how, in the struggle for existence, he can win by honest methods. By suggestion and by stories of success achieved by others, and by instructing him in the elementary branches of learning, I soon succeeded in assisting him to desire to do something better in life than he had been doing. In a little while he had made up his mind that he would like to raise chickens, marry, have a home and live "on the square." To-day he is a free man and married. He has written me that he has not yet made enough money to get the right kind of start in the chicken business; but that he is saving to that end. It is a sad commentary on your system, Madam, when I say that all communication between this youth and myself was had in violation of the rules of your penitentiary, and that if your officers had found out that we were communicating with each other, they would have thrown us in the dungeon.

Having left Tommy Jones to be condemned to spend the remainder of his life with the rest of the criminal world, let us follow William Smith, who comes in much as did Tommy. His nature is somewhat different. He lives up to the prison regulations in every particular. He is quiet, unassuming and minds his own business absolutely. Apparently he never notices whether a guard is watching him or not. The officials see that he seems to be conscious of the divinity of prison discipline, so they give him a "trusty" job, driving a team. William wears citizen's clothes at his new job, and he has it just a week when he is missing. The officials never see him again.

When they learn that he has run away, they stand around in hopeless, marvelling groups, looking at each other in speechless amazement. They simply cannot understand how a man who revered their idol of discipline as did William Smith, could run away from prison. They believe discipline to be the most important thing in their lives; and yet this same discipline, as it is enforced in your penitentiaries, Madam, means nothing but a system of keeping men behind bars with the least possible inconvenience to officials. It does not make for honesty, purity of thought, manhood, respect for law, nor any other virtue of a citizen. Founded on the principle that no man is good unless he be terrorized from evil, supported by barbarous cruelty, its principal effect is to breed hatred in the breasts of all who are subjected to it.

If the officials had made inquiries, they would have found out that William Smith lied to them about his

name, parentage, nativity and age, and then they might have been reluctant to trust one who would not trust them. But so enamored are they of their peculiar discipline that they cannot see beyond it; it fills their horizon.

Charles Green steals for a year or two before he is caught; then he is committed to one of your penitentiaries under an indeterminate sentence law. He knows that the gaining of his release any time after one year and before the expiration of fifteen years, depends upon his ability to win the favor of your penitentiary authorities. As a guard's word is always accepted against a convict, the mere guards of your penitentiaries—illiterate, uncouth failures in the industrial walks of life—have as much to say about a convict's release on parole as any member of a board of pardons. He, therefore, determines to use every means in his power to see that no guard has a chance to report him, to submit patiently to every inconvenience and injustice, and thus to keep his record clean, to make the best of his bad situation and live in hopes of the future. For a time, he succeeds. The memory of his crime and the realization of his guilt are sufficient to make him philosophical in the face of unreasonable treatment, especially with the inducement of parole.

But his life is made up of little things. The annoyances he suffers are petty; the privileges he gains are trivial; the rules he must obey concern small affairs; any violation of a rule is followed by punishment out of all proportion to the offence; so accustomed does he become to exaggerate little things—and this is true

of all convicts—that the very distances in his five-by-eight cell seem great. He loses all sense of the true proportion of things. Consequently he magnifies all his little misfortunes and they become as real to him and as hard to bear as large ones are to free men. But he does not dare to complain, because to do so would bring him into disrepute with your penitentiary authorities. Therefore, he is never able to see how really insignificant are many of his complaints, and they rankle in his mind as gross injustice which he must now submit to in order to gain his freedom. All his wrongs are by no means imaginary, but he remembers every one as a reality. As they come from impersonal, intangible you, he is content to have his revenge on any of the atoms that compose you. But when at last he is paroled and experiences the pleasures of freedom, he smothers thoughts of revenge and tries to live up to the provisions of his parole. Some time has elapsed since his crime, and he expects to be able to begin life as if, having suffered the penalty for it, he were now called upon only to demonstrate that he is worthy of freedom. But he finds that you are still his enemy and still wish to punish him. At every turn he meets with opposition. All forces seem to be arrayed against his living aright. Now he remembers the wrongs he suffered in prison, and how he was patient under them to gain parole. Not wishing to return to prison, he calls upon his patience to carry him over the period of police surveillance. But all his unredressed wrongs and hatred for the sources of his illogical punishment smoulder within him. When the term of his parole expires, this hostility

springs out like a Jack-in-the-box; he leaves the hateful scenes of his suffering, goes to another State and, for revenge as well as out of discouragement, he begins again a life of crime.

All the time he was in your penitentiary, no effort whatever was made to give him a wholesome view of life or to fortify him for the battle he should be compelled to wage upon his release. On the contrary, you gauged his right to release by his ability to conform with an artificial discipline that had no relation whatever to conditions outside your prison, and that was enforced to govern your penitentiary and to punish its inmates. Had he been a man who did not need to be reclaimed, he might possibly have survived his punishment; but as he needed reformation and failed to get it, the hate you bred in his breast finally mastered him when he ceased to fear you.

You should not forget that, when you give a convict a distorted view of life and of his relations to you and to individuals, in order for him to overcome this intellectual perversion, it requires a stronger mind than is usually possessed by either the ordinary criminal or the average law-abiding citizen. Such a mind Charles Green did not possess. You might be surprised at his living honestly, but not at his relapse into crime.

Now, Madam, I shall introduce you to a life-timer. As we see him, he is just coming into the penitentiary to serve a life sentence for burglary. Once before he served two years in the same prison for the same offence, and your law says that for this, his second conviction, he must spend his remaining days in the

stripes of a convict. Before going in his wake, let us return to his first arrest and follow him through the reform school.

Jimmie Davis, fourteen, has a strong imagination that is fed with stories from the Golden West. Raised on a farm, he knows horses. To get out West, he steals a horse and a sum of money. He is arrested and, while waiting trial in a county jail, some friends come to see him, and their first question is: "How do you like the place, Jimmie?" "Not a bit," answers Jimmy truthfully, "I'm lousy."

Immediately the sheriff dismisses Jimmie's friends, hustles Jimmie into his cell, and refuses him the privilege of having any more visitors while he is in the county jail. This is Jimmie's first lesson in prison discipline. He is unsophisticated enough to believe that he has had his punishment, and that he will not be punished again for this *lèse majesté*. But, of course, he is mistaken. When the judge sentences him to the "reform school," he tells Jimmie that the sheriff has "given him a character." When Jimmie arrives at the "reform school," the superintendent informs him that the sheriff has "given him a character." All this information is given behind Jimmie's back, this "giving a character." It is a correct use of the word, character. Policemen, sheriffs, prison officials are never disputed; they say a man has a certain character, and that settles it. In courts they do not testify to a convict's reputation, but to his character.

I shall now tell you about that "reform school," Madam. It will avail you little to say that that insti-

tution has been itself reformed since then, because its "alumni" are scattered throughout your penitentiaries and asylums to-day, and you still hold them responsible for the effects of influences which you have since stamped as barbarous, brutal and cowardly. Please remember that I am describing an institution as it was in one of the great States of the Union, and that I am giving you nothing but actual facts and am portraying the actual experience of a boy in that prison. I ask you specially to bear in mind that I am writing of a "reform school," not of a place of punishment. This distinction is important.

The first morning Jimmie was awakened by a bell at five o'clock. He lined up in the dormitory with other boys, all clothed in a cotton shirt and nature. As a boy's number was called, the boy answered and received his clothes from a guard, who took them from a closet that had been locked overnight. Quickly Jimmie dressed when he had obtained his clothes and went into an adjoining room to wash. The second bell was rung ten minutes after the first, and the boys fell into line. When the third bell was rung, they marched into chapel. Here the boys found their shoes which they had left there the night before, put them on, heard a prayer, and marched to the schoolroom. School for one hour was followed at six-thirty by breakfast, which consisted of bread and coffee, with molasses or butter every alternate morning. As the boys arrived at their places in the dining-room, they stood with arms folded, awaiting the signal to pray, then the signal to eat. On each table were three pans of bread, two cans of coffee, and a cup and a plate

for each boy. Presently the assistant superintendent snapped his fingers and the boys prayed in unison: "Let the words of our mouths and the meditations of our hearts be acceptable in Thy sight, O Lord, our God. Amen." Before Jimmie had been there two days, he was meditating on getting his share of bread out of a pan. After prayer, the assistant superintendent again snapped his fingers and the three pans of bread on each table were emptied before a single boy sat down. Some boys got two slices, some one, some none. Apply your law of the survival of the fittest to this emergency, Madam. The first morning Jimmie got no bread. After that, he got his share. Of course, this was not a lesson in brute force and selfishness.

By seven o'clock the boys were at work. Jimmie was placed at the lasting bench in the shoe shop. At eleven-thirty the bell rang for dinner, and the boys went first to the washroom, then to the dining-room. Dinner consisted of soup, bread and coffee, five times a week; on Wednesdays, bread, potatoes, meat and a piece of pie; on Sundays, bread, coffee, mashed potatoes, gravy, roast beef and pie.

After dinner, recreation until the one o'clock bell called the boys to work, which continued until four-thirty, then recreation until five o'clock, when the bell rang for supper, consisting of bread and tea. After supper, they spent two hours in the schoolroom, and then devoted one-half hour to religious exercises in the chapel, where they finally left their shoes before going to the dormitories. At eight o'clock each boy gave his clothes to a guard, who locked them in a

closet. Then the boys could read or talk until nine o'clock, when the lights were extinguished.

Sundays and holidays, of course, the routine was different, and from these days visitors judged the boys' life. Sunday morning began with chapel exercises, followed by breakfast, then recreation until nine o'clock, then chapel again for two hours, then recreation until dinner; then the boys could enjoy themselves in the afternoon any way they wished if the weather permitted. If it rained, the boys would walk around in a circle in the basement of the main building, or sit on benches and talk and read. Sometimes the boys would be taken to the schoolroom and the teachers would read a story to them. The supper on Sundays consisted of a piece of gingerbread about three inches long, one and a half inch thick and two inches wide, and a cup of tea, no bread. Then the boys would again go to the chapel and sing a few hymns, after which the superintendent would read to them until bedtime.

The school had a good library, a brass band and baseball teams. Boys who played in the band or belonged to the ball teams were allowed extra time for practice. The first baseball team was a very good one and, during the four years that Jimmie was in the school, it was beaten only once, although teams came from all over the State to play against it. One Independence Day, Jimmie saw about four hundred visitors watching the ball game and field sports.

These visitors saw the boys play with vim and with a keen relish of the sports. It is natural for boys to jump and run and shout and feel good—even boys in a

" reform school." The officers recognized that it was to their interest to join in the sports and impress the visitors favorably. But if some one had stripped the clothes from some of those joyous boys and shown the scars of punishment, the visitors might have been impressed differently; or, if they had dropped into the dining-room on some weekday when visitors were barred, they could have seen things in their proper light.

I imagine I hear you say, Madam, that this statement of the routine does not disclose much barbarity. Stay. Is not a mere statement of routine all you hear of a prison? Does any one ever recount to you the methods of discipline that annul the good effects you might expect that routine to have on those subject to it? Let us behold a few of the incidents that make up the life of Jimmie Davis in the " reform school." We will go into the schoolroom first.

One of Jimmie's teachers has a habit the boys call " scaunching." Every morning he takes a walk around the room and applies a heavy ruler three or four times to the heads of different pupils. He makes it a point never to tell what this punishment is for. He calls up a dull pupil to teach him how to accent the different syllables in the line, " baby said to little birdie." He repeats them with exaggerated accentuation and accompanies each stress of tone with a blow of the ruler on the boy's head. For five minutes he perseveres in this muscular instruction. A few years later this boy will be a convict at Stillwater, Minnesota.

On another day we hear cries coming from the schoolroom, and we enter hurriedly to find this

teacher beating a boy on the body or head or in the face, as opportunity affords, with a club eighteen inches long and made of a pitchfork handle. Another officer is present and he turns his back on the sight and exclaims: "Brutal! Brutal!" Presently the boy is subdued. He is not pleasant to look upon now, with his bleeding head and face, and his sullen, scowling eyes. But he is charged with resisting an officer and at once placed on the "grade line." On the grade line a boy stands at attention for any number of hours, from one to seventy-two. We shall investigate this mode of punishment presently. This teacher is studying medicine while he teaches the young idea how to shoot, with a ruler and a hickory club. Later he will be a famous surgeon in one of America's greatest cities.

Jimmie just gets his breath from beholding these evidences of cruelty, when a boy runs away from the school. Jimmie sees the boy overtaken in a field by a mounted guard and covered by a revolver. After the boy is under complete control, Jimmie sees the guard dismount and strike the boy repeatedly in the face with his revolver. On the way back to the school, the guard repeats this at intervals. As the two enter the gate, another guard calls out: "Give it to him good!" One officer is told to club the boy, but he refuses to do so. Two other officers are willing, so the boy is clubbed by each of them, then placed on the grade line for three hours, then thrown in the dungeon, and finally compelled to wear the stripes of a convict. You can easily imagine what are the thoughts of a boy under such treatment, and what

they are when he sees acts of kindness, mercy or generosity. Which do you prefer him to have, Madam? Would not you suppose that if such punishment deters, one dose would be enough? Jimmie sees that boy wearing stripes during eighteen months out of the four years that Jimmie is in the school. Evidently once was not enough for him. Later this boy will get a life sentence in a Western penitentiary.

The boys who wear stripes are in a squad by themselves called the "zebra family." The guard in charge of this squad amuses himself by sticking a pin or a needle into the "zebras." One of the boys tires of the one-sided amusement and makes a "billy." The next time the guard sticks him, the boy draws his billy and starts for the guard, who backs away with uplifted hands, crying for help. Two guards save their companion, but on his temple is a scar he will wear through life. The boy is mercilessly clubbed, and then, being too weak and lame to walk, he is carried to the dungeon.

One day Jimmie hears a boy beg piteously of the officers to give him a fair show. None is given him, and that night the boy sticks a knife into his side. It misses his heart, but the doctor says it was a close call. This boy remains in the hospital for some time afterwards.

One boy escapes from the "reform school," is captured in a distant town in the State, and locked in jail to await arrangements for his return to the "reformatory." Rather than face the horrors he knows are in store for him for escaping, he attempts suicide in the jail. One of the trustees of the school lives in that

town, and he calls on the boy and questions him. When the boy finishes speaking, he has the satisfaction of hearing the trustee say: "You are telling me nothing but lies; I don't believe a word you have said."

One night, in Jimmie's dormitory, some of the boys begin throwing pillows at each other. But these boys have been trained in a school of clubs and revolvers, and pillows seem too tame for them, so they grasp bedslats instead. A guard, hearing the disturbance, rushes in with drawn revolver and begins shooting. Not one of the boys engaged in the disturbance is injured by the bedslats, but two of the boys are wounded by the revolver. One is shot in the thigh, another in the leg. The bullet producing the latter wound is extracted three months afterwards, and with it is taken out a piece of blanket. This boy was in his bed covered up when shot. He was pardoned when that bit of blanket proved he had not taken part in the alleged riot; but, if he is still alive, he is still a cripple.

Some of the boy "rioters" are ordered to stand on the grade line for forty-eight hours, and others, according to "character," for varying periods down to, but not less than, twenty-four hours. Jimmie is ordered to stand there for twenty-four hours. During this time he falls asleep while standing and a guard pours water down his neck. The next time he falls asleep, the guard sticks a pin into him; the next time the guard kicks him; the last time the guard clubs him. When a boy faints, the guard revives him by any of the same methods. The boys stand in grade line in the chapel. About two o'clock in the

morning one of the boys goes to sleep. The guard sticks him with a pin; but he applies this remedy more forcibly than usual, and the boy awakens resentful. His fist shoots out and the guard staggers back. The boy rushes to the window, which is four stories from the ground. Before he gets the window open, a bullet from the guard's revolver cuts a clean hole in the pane close to his head; but he opens the window and places one leg across the sill. Then he hears the guard approaching and ordering him back into line. He looks at the guard, who is pointing his pistol at him, puts both legs over the sill and rests his weight on his arms and breast, as he shouts: "Keep back, or I'll jump!" The guard begs and threatens, but the boy does not get back into the room until the superintendent comes and promises that he will not be punished for striking the guard. This business ends the pin-sticking during that particular period on the grade line; but in future the grade line is formed in the basement, and the pin-sticking is resumed. The food allowed on the grade line is bread and water once every twenty-four hours.

The assistant superintendent has much to say about discipline. When all the squads, or families, as they are called, are in the basement, he mounts a bench, club in hand, and calls out: "'Tention!" The family nearest him are shaking in their boots, because, as soon as the command leaves his lips, he leaves the bench and goes down one side and up the other, striking indiscriminately. Sometimes he makes a second round trip. He calls this "dressing the line."

Just one more incident, Madam, and we shall leave

this "reform school." It has to do with Jimmie himself. There are some occurrences in such places that cannot be reported for general reading. Such an incident centers in Jimmie, and not to his discredit. Beyond this, I can tell you nothing of it, save that he refuses to obey the order of a guard, and is reported to the superintendent for the following offences:

Resisting an Officer.
Abusive Language.
Foul Language.
Disobedience.
Disrespect.
Talking Back.
Insubordination.

Jimmie has a boy friend in the shoe shop, who sharpens a knife like a dagger and gives it to Jimmie. With this up his sleeve he approaches the guard at noon and asks him if he made any report to the superintendent about the occurrence in the morning. The guard replies that he has not. Jimmie is not satisfied and he gets permission to see the superintendent. A school trustee is in the office when Jimmie enters. Jimmie is now sixteen. The superintendent tries to usher Jimmie into another room, but Jimmie insists that the trustee hear what he has to say. After much effort he persuades the superintendent to read the reports out loud. When he hears these seven offences charged against him, the air becomes blue and sulphurous. A torrent of words tumbles out of his feverish mouth as he tells the trustee and the superintendent all about the incident, the knife, and the lie the guard had told and how that lie had saved the

guard's life. He talks on as only a bright, fearless boy, driven to desperation by constant cruelty, can talk. At last, to show that he is sincere, he lays the pointed knife on the superintendent's table. Both the trustee and the superintendent, impressed by the righteousness of Jimmie's complaint, inform him that none of the report will count against him and, as Jimmie leaves the office, he sees beads of sweat on their foreheads, while they behold a pale, determined boy, with flashing eyes, going back into the old routine of discipline and "reformation."

Madam, as I write this, I recall that incident experienced by the father of your modern juvenile court. You will remember how a boy, watching him mete out justice, suddenly ran forward and, placing his arms about the judge's neck, kissed him and said: "I love you."

You can have either attitude you wish from your so-called criminals,—that of Jimmie in the "reform school" with murder in his heart, or that of the boy in the juvenile court with loving words falling from his lips. It rests wholly with you. You used to say reform school boys were incorrigible, and now this assertion is proved to be false. To-day you are saying convicts are incorrigible. How long before you will allow this assertion to be proved to be equally false?

But let us return to Jimmie Davis. He is now a grown man. As I said, he has served one term in prison before he begins his life sentence for burglary, and this life sentence has been given him because he learned, in the "reform school" and in his first term in prison, the lesson you zealously taught him,—that he

is a criminal. You began clubbing this lesson into him when he was fourteen years old, and kept at it until he was eighteen. Then he enjoyed a year or two of liberty before you began again to inculcate this lesson into him in the penitentiary. Now you say he must study that lesson for the rest of his natural life in the penitentiary. He is now coming in to begin this endless study. Is it not a fact, Madam, that such punishment is sheer vengeance? Remember that Jimmie is not placed there simply to keep him away from you; but that his punishment continues as long as he lives, and that even after death you manifest your hate in the disposal of his remains.

Think you, you can imagine his thoughts? Do you believe he approaches the familiar gate with a contrite spirit? Do you believe he says to himself: "This is just; it serves me right?" After what you have read of his life, I do not think you do. I know Jimmie well, Madam. He is a man of unusual abilities. He can think, and, were it not for his confidence in himself, he would much prefer to end his days at once than face the future, not because of cowardice, but because of the utter futility of prison existence. He believes himself able to accomplish his release, by one method or another, in time to get a little enjoyment out of life before all his allotted days have been sacrificed to your vengeance. Need I say that he is not very particular about the means so long as the end, liberty, is accomplished? Can you blame him? In his "reform school" days or in his first term in prison, no effort was made to teach him that law and order were beneficial to him as an individual, or that it was

his duty, as a future citizen, to respect the law and to help to maintain it. On the contrary, you taught him that your law and its agents were his mortal enemies, and that they were to be feared and hated, because their chief delight seemed to be revenge and unreasoning, cold-blooded torture. You taught him that might makes right, and that money is might. Therefore his conception of liberty was an opportunity to obtain money by force. You demanded that he go forth into a hostile world and live honestly, even after you had branded him as an ex-convict. At the same time you believe it is a monstrous crime to serve a term in one of your penitentiaries, even when a man does it, as your law says he does, in order to keep the rest of the people in the strait and narrow way.

Judicious use of a lance will allow nature to cure an abscess. But angrily driving the lance into the bone and leaving its point there as a warning is either criminal or stupid malpractice, and the victim is entitled to recover heavy damages for the injuries he sustains. In Jimmie's case, when you found that your treatment had only irritated the flesh, you angrily drove your lance of punishment into the bone and left the point there as a warning to him as long as he should live. Are you in no way responsible for this criminal or stupid malpractice? Do you owe him nothing?

In your penitentiaries are men who have wantonly slain men. Their punishment is no greater than that administered to Jimmie, and yet his crime was only against money. Human life, virtue or innocence, once taken, can never be returned. Since Jimmie was four-

teen, you have been robbing him of years of his life and the fruits of his toil, and have given him nothing in return except a perverted sense of justice, a distorted view of life and hatred for your law and its institutions and agents. Now, when the results of your robbery have shown themselves in his further violation of law, you rob him of all the years of his life and the product of his labor. With all the misfortunes you have heaped on him, has one single wrong he did been righted?

If he look forward to the time when the whim of one man may result in his being pardoned, he realizes that then he will be like all other long-timers—old, broken in health and spirit, weighted with sorrow, hateful, irritable, partly, if not wholly, insane, unfitted for labor, even if it should be possible for him to secure it, and with the best years of his life spent in uselessly resisting the baneful influences of your punishments. Pleasures of home, of friends, of refining influences, he never knew and never will know. He thinks of the many, many professional criminals who, after committing crime after crime without being caught, are finally imprisoned as if it were a first offence, while many others must serve life after a second conviction when the second conviction is only a second offence!

Unfortunately for your system, Madam, the men who are under it do not cease to think when they are clothed in stripes. They realize that if they hope for clemency, they must conform to the system in every way possible, and so, outwardly, they do. But many men in stripes to-day, looking toward a gloomy

future, hoping only against hope, and knowing that their sufferings are the results of unjust punishments, stifle their feelings of resentment and remain patiently in prison, because they cannot tolerate the thought of slaying an irresponsible human being, even to regain that liberty to which they know they are justly entitled. True, the penitentiary officials are constantly feeding them with the hope of a pardon or a commutation of sentence. But if life means life, why pardon them? If it does not, why sentence them to life? Why not be honest about it and commit them to prison for a certain term, not life, and hang those whom you would imprison for life? Wouldn't this be the more merciful way, if you are determined to go on inflicting barbarous punishment?

When you have crushed Jimmie until he is too helpless to harm any one or to aid himself, perhaps you will pardon him. Some charitable person may then take pity on him and give him some nominal work at a living wage, and allow him to end his days away from your vicious cruelty. Will you say then that your penitentiary *reformed* him?

Fortunately you are unable to imprison for life all old offenders. They are seldom recognized as such, and your law does not everywhere take cognizance of convictions obtained in other States. Few are the convicts who do not begin to promise themselves long before their terms expire, that "they will get out of the State the first thing." There is a saying, common in all your penitentiaries and indicative of the convict's impatience to leave the State that has so brutally and unjustly treated him; it is this: "When I get out, I'll

cut my suspenders and go straight up until I meet a wind to blow me across the line." Each of the States is dumping the men its penitentiaries have confirmed in crime, into the other States, as the police of one city drive suspicious characters into other cities. This method creates a class which may be recognized as the product of your penal system. It produces the much discussed and mysterious American tramp.

The tramp is your unsolved riddle. He is ubiquitous. There is not a corner of the United States, or of the portions of Canada and Old Mexico opened to civilization, into which he has not penetrated. His movements are ever stealthy, and when or whence he comes, or when or whither he goes, you do not know. His numbers are great, but no one knows how great. He leaves Chicago or New York one evening, steals something in Indiana or New Jersey that night, and is back in Chicago or New York the next morning. He associates only with his kind, and he gives no reliable information about himself, his fellows, his doings, his life or his aims, to any one whom he does not know to be square from a criminal standpoint. Even your most-talked-of detective knows little about him or his life. A few years ago the States of the Mississippi Valley were invaded by a gang of tramps that blew open bank safes with such large quantities of nitroglycerine that they often wrecked adjoining buildings. Then they would quickly secure their booty and hold the town at bay until they made good their escape. This detective then gave you a new word. He called these tramp thieves "yeggmen." The etymology of this word

is interesting. There is a class of tramps composed of professional beggars who seldom or never commit any crime that would result in their confinement in a penitentiary. These tramps are sometimes called "yeggars" by their kind. The word is obtained simply by substituting "y" for "b" in the word beggar, and, by a natural apocope, "yeggar" becomes "yegg," which is the word most often used in the tramp argot for beggar. A cringing, whining "yegg" would hardly be engaged in the line of criminal work to which your detective referred when he spiced his interview with the use of the word "yeggmen."

Permit me, Madam, to solve for you the riddle of the tramp. First, let us exclude from the class some of those whom you are wont to designate by this term. I refer to your great number of common laborers who are constantly travelling from one part of the country to another to meet the demands for labor. They travel, as do tramps, by "beating their way," and this is their only resemblance to them. They may occasionally beg a meal, but they do not steal. They are usually without family ties, careless, hardworking, freehanded and indifferent to to-morrow. The saloon and kindred "business places" get practically all their earnings. The tramp, however, simply will not work unless he is compelled to. He has been taught to hate work in your penitentiaries, and he has learned his lesson well. Occasionally, unsophisticated boys are enticed into the life of a tramp, and, boylike, they quickly adopt the views and argot of their companions. These, and a few scattering malcontents from the ordinary walks of life, are the only exceptions in

trampdom to the statement that the tramp is the product of your penitentiary.

When you consider the tramp's hopeless, strange, unnatural attitude toward life and its purposes, you must look for strange and unnatural causes. He is a being who hates your laws, your customs, your institutions, your property rights, your ideals, your thrift, your virtue and nearly all things that bear the stamp of your approval. Almost every faculty of his mind is perverted. His passions are vicious and his longings strange. Yet he has a code of honor which he lives up to with religious zeal. He is a true communist. He shares whatever he has with his fellows and he expects them to share their possessions with him. He calls thrift stinginess, and lives wholly for to-day, trusting that to-morrow will take care of itself. He will risk his life and liberty for a few dollars, and then return to a campfire and throw the money on the ground for his companions to use for the needs of the occasion, such as food, tobacco, alcohol and opium or morphine. This generosity and good-fellowship among them demands faithfulness in return and, as a rule, a tramp will go to your penitentiary even for life, rather than give information to the police about his partner in crime. However, human nature is fallible in trampdom, as elsewhere, and occasionally one becomes an informer, only to meet death at the hands of the sufferer or his friends. Then the newspapers record the discovery of the remains of an unknown man, and speak of "foul play." But they do not mention that the crime was committed by a man who is a product of your penal system.

To suppose that any one is born with the mental traits of a tramp thief, or that there are, in the common pursuits of man, conditions which would produce such a wholesale number of these vicious rogues as you have in your household, is preposterous. It is true that certain conditions often produce the "yeggar" independent of your prisons, but he is a comparatively harmless person until he falls in with tramp thieves and begins to emulate their ways of life to the degree that his courage will permit. As he is usually a weakling, he copies only their vices, one of which prompts him to entice away from home boys whom he also trains to beg.

If you will follow John Williams, the boy who served three years for stealing a small quantity of old copper, you will see one of the ways in which the tramp is made by your penal system. When he leaves your penitentiary, he immediately leaves the State. For three years, by forcing him to work at the point of a gun and robbing him of the produce of his labor, you have been doing all in your power to make him hate work of any kind, and your efforts have been copiously supplemented by the preachings of the tramps with whom you have compelled John to associate. They, and other convicts, have been the only ones who have sympathized with John in his sufferings from your savage cruelty, and they have always been willing to share with him tobacco, matches, papers or anything else that would brighten or make more bearable his condition. The one who alleviates suffering, fertilizes the soil of the mind, and the seeds of any doctrine he may sow therein will sprout and

thrive. For you to have dealt kindly and justly with John, would have been a breach of prison discipline and a suspension of your highly beloved system of punishment. You say certain criminals must be punished; you punish them; scalawags treat them kindly, and—note the effect, Madam.

As I have said, the cardinal tenet of the tramp's creed is to live without working. John does not have money enough to pay his fare to his destination, so he "beats his way" and, on the road, he meets with some tramps. Around a campfire he talks of his experiences in your penitentiary and of the tramps there whom he knows. He displays such a knowledge of their argot that he is readily accepted as a full-fledged tramp, less proficiency in riding on a train without the permission of its crew. However, his new acquaintances assure him that he will soon learn this accomplishment, and they regale him with stories of long rides made by hoboes. The wild freedom of the life, contrasted with his experience during the previous three years, coincides perfectly with his desires. His passion for a full enjoyment of his freedom is much stronger than that of a sailor ashore or a riotous soldier discharged after a war. He is like an escaped slave in a city of refuge, and he now looks for an opportunity to manifest his hatred against you, whom he has ceased to fear. On his arrival in the city, he commits a few petty thefts in company with other tramps, and is finally caught and sentenced to the county jail for six months. Here he is placed among other tramps and, because he is an ex-convict and knows many of the notorious characters of trampdom,

he is given a high place in their councils. He learns a few more things about thievery and begins to eat "en-shee." This is the burned remains of opium after it has been smoked. I have never yet been in a penitentiary or a jail where this stuff was not obtainable. Although I do not know its effect from personal experience, I have seen its work on those who used it, and it is, as is well known, harmful in the extreme. Indeed, cautious criminals will not have anything to do with men who use it. It so saps a man's vitality and thus weakens his sense of honor, that it is said among us and among detectives, that a "hop fiend" with a "habit" will give incriminating evidence against the one who bore him if such information will procure him the drug. Nevertheless, opium is popular among some convicts in jails and penitentiaries, for the reason that the one under its influence has no perception of time. The hours will roll by as minutes and the years as months. So when a man's only purpose in life is to kill time, it is not surprising that he uses the apparently best means obtainable. The greater number of convicts who use it say that they never touch it when outside. However, one is entitled to one's own opinion as to that. But John has this idea instilled into him, and upon his discharge from the jail, he ceases to use it. He finds it is not difficult to leave it alone, because he has not partaken of it long enough to acquire a "habit." When he gets "on the road" again, he falls in with a tramp who will not use it—yet. He learns something of its effect from this older man, and concludes never to touch it again in or out of jail.

During his wanderings, he is arrested many times in cities and towns and given the option of serving thirty, sixty or ninety days in jail, or leaving town within twenty-four hours. The magistrate and the police and John all know that this is illegal and that John will "beat his way" out of town. Thus they force him to the commission of another crime, that of riding on a train without paying his fare. While the authorities are doing this in one city, they know that the authorities are doing the same thing in other towns and cities. In this way, tramps are kept constantly moving from place to place, until they are convicted of some crime and pause to serve months or years in your jails or your penitentiaries.

The method the police have of driving tramps out of every city in which they are recognized results in their collecting in the larger cities in great numbers during the winter months, for, if they are in the Northern States at that time, they usually desire to remain practically at rest. As Chicago is a geographical and railroad center, and offers peculiar inducements to the tramp in the way of cheap lodging houses, friendly saloons and patronizing aldermen, she is usually overrun during cold weather with "hoboes," "gay cats," "fuzzy tails," "dynamiters," "proper stiffs," tramp thieves and all the other gradations of mendicants and criminals. When a tramp is ordered to leave Chicago, he simply goes to another part of the city where the police do not know him. But in the instances in which the police succeed in driving such persons out of town, they are replaced by others. The presence in Chicago of this element in great numbers

is what has given her her reputation as a city of many crimes. But the corrupt politicians who use these criminals to offset the vote cast by the respectable element are not the only ones to blame for this condition. You have manufactured the criminal article they use. Every penitentiary in the land is engaged in the business of making tramps. If the subjects on which your penal system works are weak, they are turned out as true yeggs,—men who go whining and begging over the land, without courage enough to steal except when they are in large numbers and have drunk considerable alcohol. Then their crimes are often so cowardly and wantonly cruel that they shock the entire country. Under your penal system, even the strong are soon reduced to the mental and physical condition of the yeggar, and the last home of the tramp is your asylum, your workhouse, or your penitentiary. But wherever you have him, in one of your institutions or roaming over the country, you, Madam, are compelled to support him.

One evening John and others are sitting around a campfire, when a middle-aged man and a youth approach them. They soon become acquainted with the strangers, for the older one is known by reputation. He and the boy have only recently been discharged from one of your penitentiaries, the former some thirty days before the latter; but the man waited in that neighborhood for the boy to join him. John learns that in the penitentiary was formed a relationship that still exists between these two, and he congratulates himself that he has been able to escape a similar one. The talk is about penitentiaries, jails, police and

tramps. If you could hear this conversation with intelligent ears, you would learn that the one hope you have of reclaiming these beings lies in the fact that they are at heart, without an exception, discontented with their purposeless existence, in spite of the fact that they seem to like it.

About midnight John and two or three others, all under the influence of alcohol, go to the neighboring town to burglarize a dwelling house which one of their number selected during the day. The police catch them in the act, but all except John and a companion escape. Court and grand jury are in session the next day, and a true bill is returned against John and his partner. It transpires that this town has been suffering much of late from burglaries, so the police, the prosecuting attorney and the judge are all anxious to have a severe punishment inflicted on the burglars they have in their power, as a warning to others. When John and his partner are brought before the court, there is nothing else for them to do but to plead guilty. This they do, and the judge sentences each of them to fifteen years in the penitentiary, the maximum sentence allowed by law. All this has taken place within less than twenty-four hours after the commission of the crime. But the authorities are unable to remove their prisoners to the penitentiary the same day, and that night the other tramps come to the jail and release their comrades. They all make good their escape, and John is now, more than ever, convinced that tramps are his friends and you his enemy.

When you first got him in your power, he was sincerely ashamed of his crime, and you could easily have

directed his energies to the accomplishment of worthy deeds, but you preferred to make a tramp thief out of him, and now you must suffer his crimes and, whether you wish to or not, you must support him the rest of his life unless you change your methods of dealing with him and his kind. So long as he lives under your present system, he will be a menace to property, life and virtue. The time will come when he will be completely crushed by age and your savage methods, and then he will be a timid, vile, debauching yegg,—the finished product of your penal system. And the last spark of his energy will doubtless flash in the commission of some crime that will result in his confinement in one of your penitentiaries, where he will remain until death mercifully releases him from his sinful existence, for which you, Madam, are unquestionably responsible.

The number of tramps that your penitentiaries are constantly manufacturing gives you a grave problem to solve. You have created them; what will you do with them? When you incarcerate a criminal and deprive him of all liberty in all things, and direct even the current of his thoughts, you are certainly responsible to him for the effects of such treatment, and honest men whom he robs, or the families of those whom he slays, or youths whom he corrupts,—any or all of these have the right to say to you: "You claim to be able to reform the criminal; if you do not, you at any rate assume the responsibility for the criminal's conduct when you discharge him from your jails and penitentiaries; you are constantly releasing criminals who are more dishonest, cruel and depraved

than when you first confined them; if you are unable to do any better than this, you had better change your method or else never liberate a man whom you once get in your clutches. We demand protection. You say you can give it to us; do so, or give up the job."

The criminal may justly say to you: "I demand protection from the conditions that make me a criminal, especially when some of those conditions are the arbitrary creation of a stupid penal system that had its source in the passion of vengeance. So long as you acknowledge my right to live, you must acknowledge my right to progress physically, mentally and morally.

You must admit the justice of both declarations. Then there is one thing for you to do,—reclaim the criminal. Right here, I wish to say, Madam, that if you cannot do this in five years, you cannot do it in twenty-five years, and, under your present system, you cannot do it in any number of years; for all you pretend to do, by means of your penitentiaries and jails, is to inculcate fear of the law. This is not only a barbarous purpose which it seldom or never accomplishes, but it is also a precarious substitute for honor. If any man undergo reformation in your penitentiary, rest assured that such change is brought about by influences outside your penitentiary, and of which your law takes no account. Founded, as it is, on the deterrent principle, all reformative measures are antagonistic to its being and cannot be effective so long as the idea of terrorizing into righteousness underlies its discipline and the purposes of the law in committing a man to prison.

There is one little woman in your domain who, by

kindness and practical help, is nullifying the effects of your penal system on many discharged convicts. Governing the homes which she has established for them are certain rules which she has found necessary to the success of her efforts, and one of these rules is the most emphatic declaration against your penitentiary as a place of reformation that has come under my observation from an outside source. It is that the discharged convicts shall never talk about the prison they were inmates of, and, to the degree possible, shall even dismiss it and their experiences there from their thoughts. Now, Madam, if your penitentiary is of any real benefit to its inmates, why should they be solicited, in such a cause, to use every possible effort to forget it? Is ingratitude a virtue, and do men dislike to keep green the memory of those who have done them great kindnesses?

Every time the officials of one of your penitentiaries quarrel among themselves, those who are discharged expose the cruelties practised in prison. But a little "newspaper talk" is the only result. The exposures pass from the memory of the people, and, in a little while, the old practices are resumed. While the warfare is going on in the papers, those who are responsible for the cruelties complained of invariably make the plea that severe punishments are necessary in order to maintain discipline. Not long ago the warden of one of America's largest penitentiaries was described in the press as pleading for the privilege of flogging and hosing and tying in strait-jackets the convicts in his charge, and the press said he spoke with tears in his eyes. Sincerely, Madam, I pity that man's view

of life. I do not blame him for following the example of your law. He is hardened to the cruelties he practises, and is never brought to account for their effects. But is it not disgusting for a representative of law and order and of the government of a civilized state, to be pleading tearfully for the privilege of brutalizing human beings, when a little kindness and a little genuine interest in their welfare would raise them to law-abiding and useful citizens?

I was a convict in a penitentiary in which an insane convict was flogged so severely that the next day he died in an insane asylum where he had been removed to avoid "talk." This flogging was administered because a guard felt himself insulted by the wretch's gibberish. In this penitentiary other punishments were almost equally brutal. I have also been a convict in a penitentiary in which the most severe punishment administered any convict during the year I was there was a few weeks in a dungeon on bread and water. In the former penitentiary, the guards and officers were brutalized by their own cruelty, and they ordered and cursed convicts in a manner incompatible even with the treatment accorded slaves in far more ignorant times. The results were trouble, violations of discipline and daily punishments. In the latter penitentiary, the guards had not been brutalized by inhumanity, and they spoke to a convict as one human being speaks to another. Consequently it was a rare instance when punishment was inflicted.

All history teaches that cruelty begets cruelty, wrong begets wrong, hatred begets hatred. It also teaches that kindness begets kindness, right begets right, love

begets love. If you are to profit by the lessons of history, if you are to be actuated by higher motives than vengeance, if you are to conform to the enlightenment and the spirit of the twentieth century, if you are to recognize that you reap what you sow, if you are to prefer good citizens to desperate criminals, then, Madam, you will abolish vengeance and hatred from your system, in fact as well as in theory, and you will strive so to reform your penitentiaries and their inmates, that you will be able to undo some of the evils your penal system has been accomplishing.

Prison discipline simply punishes and facilitates the confinement of convicts. Recently the London suffragettes who were confined in prison saw the utter silliness and childishness of the rules they were compelled to obey, and later they exposed the jail conditions to public gaze. You can hardly say these women are degenerates who are impatient of authority. It is from England, I am told, you borrow your principles of prison discipline. They rest on the fact that a convict has no rights whatever. To sleep, to drink, to eat, even to breathe is a privilege. When a penitentiary is first established, the privileges extended are usually numerous. But if one convict abuse a privilege, it is customary to deprive all the other convicts of that privilege, whether they have abused it or not. Especially is this true when an offence is committed by some convict whom they fail to detect. Thus by gradually curtailing privileges, it soon comes to pass that a set of written and unwritten regulations is put in force, which, if published, would bring upon their authors a storm of ridicule. Up to a cer-

tain point, the more privileges convicts have, the more work the officers have; beyond that point, the officers' work decreases. Working the other way, a point is reached beyond which a curtailment of privileges means increased duties for the authorities. The aim of all discipline in your penitentiaries is to give to convicts that minimum of privileges which will result in a minimum of duties for the guards and officials; while the discipline of your jails is to give to prisoners that maximum of privileges which will produce a minimum of duties for the jailers. In neither case are your interests considered beyond keeping the prisoner under lock and key for the term prescribed by the court.

Under childish restrictions, strong men are troublesome. Yet the man who is courageous enough to resent unjust punishment is quick to recognize justice and fairness. Of all your convicts, he would make the most desirable citizen, but he is the very one whom prison officials stamp as incorrigible without considering the value of courage and will-power, or the stupidity of the rules under which he frets. The simpering weakling who fawns and cringes is, according to them, a submissive and model prisoner, as is also the one who pretends to abide by their whimsical regulations. If any convict takes a manly, fearless stand for what he believes to be his rights, he is quickly told that he has no rights, and they proceed to break his "rebellious" spirit. Then, if they succeed in crushing him into a weakling who will submit to any and every injustice, they call him a good prisoner.

I served time with a man in two penitentiaries. In

the first he was constantly in trouble, and the officials considered him the worst man in the prison. In the second he was never in trouble, and convicts and officers alike respected him. Upon his discharge from the second penitentiary, he homesteaded a farm, and is living there to-day with a happy wife and children. In the first the discipline was silly and puerile, and the officers were unjust. In the second the discipline indicated no profound wisdom, but the officers were fair and the convicts, as they always do, appreciated it. Had this man served ten years instead of one in the first penitentiary, the chances are he would have gone out a weakling or a desperado.

And now, Madam, let me ask you: is it possible that, after you have taught all those who bear the brand of your penitentiary that they are criminals and can be nothing else; after you have not only deprived them of every incentive to do right, but have also placed numerous obstacles in their way when they would live honestly; after you have made them the objects of stupid cruelty and vengeance—is it possible, I ask, that you really believe that the punishment you inflict by confinement in your penitentiary, is a corrective, or that it tends toward the reformation of any man whom you would reclaim?

You remind me of an inexperienced miner I once heard of. He had been told that the old "Gilpin County" stamp-mill was the best in use. After locating a prospect and opening up his ore body, he erected one of these stamp-mills, and with it crushed his rock. Ton after ton he put through the mill, and never got more than an occasional color on his plates.

His mineral had been assayed time and again, and he knew it was goldbearing. At last he went to the assayers and told them how he was treating it, and they laughed at him as they informed him that his process was all wrong. "Your mine is a smelting proposition," they told him, "but you have been treating your ore as if it were free-milling. You will have to put in the cyanide process or send your rock to the smelter." But the miner replied that he had put that stamp-mill on his mine to get the values out of his ore, and that that stamp-mill must do it. "That is what I bought it for; that is what I run it for," he said. "Here is some gold I got to-day. True, it is only a flake or two, when I should have got many ounces. But I shall continue. I shall put the rock through the mill again, and keep doing it until I get the gold, or crush the ore into dust for the winds to blow away."

Do you not smile at that miner's reasoning? Then you do so no more than others smile at yours. You have erected a penitentiary stamp-mill, and into it you tumble ore of humanity to be crushed. Although you get no virtue out of your ore, you do not change your methods of treating it. You have grown tired only of the effort required to put it into the crusher many times, and now, after its first passage through the mill, you place it under the stamps until it is ground to powder and the winds of death blow it away.

# ABOUT REFORMATION

"But he had yet to learn, or rather his tutors had to learn, that the sure path toward willing obedience and manful self-restraint, lies not through slavery, but through liberty."

—Charles Kingsley.

## V

## ABOUT REFORMATION

I THINK you will now admit that fear of the law does not result in reformation, that, as Tacitus long ago said: "Awe and terror are frail bonds of endearment, and when these are removed, those who cease to fear will at once begin to manifest their hate."

It has been suggested that those whom repressive measures do not deter from crime, will, when reformed, desire of their own accord to do what is right, and therefore reformation of the criminal should be accomplished as an auxiliary to repression. But, before considering reformation, it would seem proper to determine when a man is a criminal.

I should say that any person, and only such person, who is in the act of committing a crime, or who is planning, or who even desires to commit one, is a criminal. I should also say that the moment he ceases to do these things, he ceases to be a criminal. On the theory that every step in any direction makes easier each succeeding one, the one who offends your law may have a greater tendency toward crime than one who has never offended it, but his possession of this tendency depends upon his success in evading detection, the benefits he may believe himself to have gained by his offence and, if he is caught, on the manner in which you deal with him.

The youth who evades detection is apt to think himself more cunning than your officials until they show him differently by arresting and convicting him. The man who commits a profitless theft is likely to quit in disgust, as many men have done, and, after a year or two of right living, to see his crime in its proper light and thenceforth to shape his life by the nobler and more permanent motive of a desire to do right. As to the manner in which you deal with detected offenders, many men, when confronted with their crimes by others, behold them for the first time for what they are. Then they are often truly penitent, as was John Williams, who unburdened his heart to an unfeeling chief of police. If this youthful thief had been taken in hand by a sympathetic, manly man, when he was in his penitent mood, his first calm thought would probably have been to make amends for his act. If he had done this, and you had then allowed him to go his way, he would doubtless have gone through life a respected man. When the chief ordered him locked in his cell, he was not a criminal, but your subsequent treatment of him made him one.

Moreover, Madam, it seems to me that men may perform acts which you call crimes, and be ready to perform others like them, and still not be criminals. For example: When poverty makes the purchase of the necessities of life impossible, and men are forced to choose between the crime of begging and the crime of theft, they are not necessarily criminals, and the reform needed is not of the indigent, but of the conditions which make them so. Again, when your attitude towards the discharged convict makes it impossible for

him to live honestly when he would do so, you—not he—are the criminal; you—not he—are the one who needs reformation. Thus, you see, the word criminal is often loosely applied. Failure to understand its real meaning frequently results in injustice in both the enactment and the enforcement of your laws.

When dealing with offenders against your laws, you should remember that you are dealing with human nature as it is, not as you wish it to be. The man who is strong enough to do right under all circumstances, does right or wrong, and you dance to his music just the same. He is your ruler. He is a much rarer product of humankind than the idiot or the imbecile. It is utterly fatuous for you to say: "Every man shall do right, whether I allow him to or not; that is his duty. If he does not perform his duty, I will make it harder still for him to perform it by punishment that shall crush out of him all desire to do right, and by casting him back into the same conditions which caused him to offend." Yet this is what you are constantly saying to those alleged criminals whom necessity drives to a transgression of your laws. And, as has been said, you and economic conditions—not they—are in need of reformation.

Although a very few crimes are committed as a result of real want, the greater part of the crimes against property are the result of imagined necessity. Those who are governed by the craving of a vice or passion, believe its gratification to be essential to their being. When they steal to satisfy their cravings for drugs, liquors or aught else unwholesome, they need reformation, and it is accomplished by curing, and only by

curing that diseased condition of the nervous system which demands false stimulants or excitements.

The man whose mind has been perverted by continual crime or continual punishment, or both, must be either reformed or deprived of life if you would be protected from him. To reform him, if he be a criminal against property—and I know little about that far less numerous class of criminals against person—put him to work and pay him for his labor, surround him with elevating books and persons, and give him full liberty to do what is right, in so far as such liberty will not interfere with *necessary* restraint; and always remember that restraint is necessary only as a protection for you and for him, and never practise it for the purpose of stupid punishment. If you would teach a man to swim, don't deny him the water; if you would teach him to work, allow him to work and to enjoy the fruits of his labor.

Man was made to work with head or hands, and he is happy only when he is working at what he likes to do and when he is creating something useful to himself or others. "Work is life's safety-valve." It is a specific for worry and sorrow, and many physical ills; it raises the man above the fellow. The idler is a vagrant, whether he wears brogans or patent leather shoes, and vagrancy is the last stage of uselessness and the first stage of criminality. Work is the great teacher; it is the father of profitable experience. It broadens the mind, strengthens virtue, develops manliness and courage, and gives the doer of it a true sense of justice. From the ranks of the toilers, great men spring. A genius is first and always a worker.

Work rearranges the disordered mind; rights its perverted traits; substitutes love for hate, strength for weakness, contentment or resignation for sorrow, ambition for abandonment and hope for despair. But it must be work for which the individual is fitted, and he must receive the fruits of it. *You cannot teach a man habits of industry when you deprive him of all the products of his labor.* When you compel a man to work, and then rob him of all he produces, you cause him to hate both you and the work. Yet you are doing this in every penitentiary in the land to-day.

Every man is a generator of energy; environment is the transformer. Every kilowatt of that energy must be expended as it is generated. To subject a man to two, five, ten or twenty years to the silly discipline of your penitentiary, perverts the use of his energy and thus confirms him in a life of crime. To give him a wholesome outlet for his energy, teaches him that right living brings self-respect and true success and happiness. The former is punishment, a relic of your one-time savagery and barbarism; the latter is reformation, an evidence of enlightenment and real civilization.

The man with a perverted mind needs to learn not only the value of work, but also the value of money. Criminals attach no value to the dollar they have. It goes as quickly as it comes. Compel a man to make restitution of what he has stolen, and to make it out of his earnings, and you teach him the value of a dollar; moreover, you right the wrong, and the victim gets some value for the taxes he has been paying you for years.

We human beings—I beg your pardon, Madam, according to you, I am not a human being. Human beings, then, are prone to believe that they are competent guides for others in all things, and it is gratifying for them to find persons who have become weak enough for them to direct. If they can lord it over them, they are highly content; if they can only preach to them, why, they must be satisfied with that small favor. There's the rub in all the attempts at reformation I have thus far seen you make. What good do you accomplish by preaching morality to convicts? They cannot put into practice any of your precepts. They are governed by prison rules that make them do wrong every day of their lives. These rules are not based on ethics and have nothing to do with reformation; they exist to facilitate the confinement of convicts. Moreover, a man cannot test his strength in a prison, where he is under the eye of a guard constantly, and where he must shape his conduct to meet the approval of that guard who is often himself immoral. When you come to me with a lecture on right and wrong, I say: "Out upon your preaching! I know as much about moral ethics as you do; but what good does it do me? Give me a chance to practise what you preach. I know what you say is true, but you preach to me one moment and compel me to do wrong the next. Less preaching and more liberty to do right, and I shall like you better."

"But," you say, "you had an opportunity to do right and you did wrong."

"Admitting that I did have the opportunity—a condition of which you are really ignorant—is that any

reason why I should not have another? If it is, why give me that opportunity ten or five or one or twenty years hence, when I shall be broken in health, strength, spirit and mind, and unable to grasp it, or why fill me with hatred until I ignore the opportunity you would give me? Think you to frighten me into righteousness? Then I'll prove to you I'm no coward."

The man of spirit does not live who has not at some time done wrong simply because some one tried to force him to do right. You pervert self-reliance when you attempt to break a man's spirit and to make him dependent.

The central truth of reformation is this: *The desire to reform must come from within, and the degree of the accomplishment of this desire is directly proportionate to the degree of liberty you give the criminal to live aright and to the adequacy of his environment to sustain this desire.*

Here is a grain of wheat with the innate desire, as it were, to sprout and grow and reproduce its kind. Bury it in soil containing sufficient fertility and moisture and warmed by the sun, and it will do all these things. Place it in an hermetically sealed receptacle and bury it in the same soil, and it will not do any of these things. Remove the receptacle and place the grain in dry sand, and you will have the same result. Place it in a compost heap and it will rot.

Place a criminal with the desire to reform and the freedom to do so in a soil of environment that is fertilized with remunerated toil, moistened with wholesome recreation and warmed with the light of love,

and he will develop into a strong and manly man. Deprive him of this freedom under the same conditions, and he will remain a criminal. Give him this freedom, but place him in a barren environment, such as an isolated cell, and you will have the same result. Place him in the compost heap of your penitentiary, and he will rot.

Nor is this view of reformation materialistic. As the Creator has planted in the grain of wheat the desire for a full and complete life, so has He planted this desire in a higher degree in man; as the grain of wheat fails to accomplish its desire unless conditions are favorable, so does man fail to accomplish his purpose if environment makes it impossible.

Those who, in favoring your present penal system, oppose reformation call to their aid the law of the survival of the fittest, and some of them even propose to "offer a prayer for the brutal wardens and grinding guards" that their brutality and grinding may never relax until you are rid of all the unfit in their charge. The cold-blooded heartlessness that pleads for extinction by lingering torture, may seem to its advocates to be highly scientific, but it appears to me, Madam, that they could achieve their stupid purpose in a less savage manner and without running the risk of spreading a criminal contagion, if they should put to death at once all those whom they assume to be unfit to live. The fact is that these prattlers are simply ignorant of the great scientific generalization which they so glibly and so loosely apply to conditions of which they are yet more ignorant, and their judgment of the fitness of any man is utterly worthless.

The survival of the fittest does not always mean the survival of the best. A parasite will slay a mighty oak. A rattlesnake and a man meet on the desert; the rattlesnake slays the man and survives. One hundred Italian families leave Italy and settle at Sunnyside, near the Mississippi swamps, which breed thousands of mosquitoes. One hundred and twenty-five colonists die of malaria the first year. Then an Italian priest, hearing of their plight, leads them into the Ozark mountains, where they thrive and multiply and live happily. Some individuals succeed in the most unlikely surroundings; others fail where success would be expected. Let them change places, and the one who succeeded, fails, while the one who failed, succeeds. In one instance, an honest man slays his would-be robber; in another, the robber slays the honest man. The best or the worst survive only as conditions favor the best or the worst. You know some man you believe to be good. Had he been taken in infancy into some depraved family in a city's slums, and there raised in squalor and vice, think you he would have survived his environment a good man? Applying the law of the survival of the fittest to a man in your penitentiary, and thereby hoping to justify the manner in which you crush him into a despicable "yeggar," is like applying it to an attempt to raise a banana plant in Canada without protecting it from the rigorous winters, and thereby hoping to justify a wild assertion that the banana plant is worthless. To show that a criminal is unfit to survive the discipline of your penitentiary, is neither to condemn the criminal as incorrigible nor to prove that reformation

should not be used as an auxiliary to repression. As I see it, such demonstration is simply a demonstration of the fatuity of your penal system.

Do you remember what the Portuguese Duck did to the Singing Bird in one of Anderson's fairy tales? Well, she bit off the Singing Bird's head. Then she said: "Now what is the meaning of this? Could he not bear even that? Then certainly he was not made for this world. I've been like a mother to him, I know that, for I've a good heart."

Having seen that, given the desire to reform, the degree of the accomplishment of this desire is directly proportionate to the degree of liberty you give the criminal to live aright and to the adequacy of his environment to sustain this desire, it would seem to be fitting to discover how he can be induced to gain this desire. The method of so inducing him is not a secret. It has been known for many centuries. It may be generally stated thus: Call for the best in a man, and you will get it; call for the worst, and you will get that. For ulterior reasons, all men may not openly admit that they respect justice, but in their hearts they do. Show any man that you are just, call for the best in him to support that justice and you will get it in ever increasing quantities. But you can never accomplish a criminal's reformation by treating him with malice and hatred; for such treatment teaches him to treat you likewise. Doing good and living aright under a whip are never productive of joy, and they cease when the whip is withdrawn; but voluntary right living brings happiness and a desire to be upright always.

# CONCLUSION

"I have a brother is condemn'd to die:
I do beseech you, let it be his fault,
And not my brother."

—*Measure for Measure.*

## VI

## CONCLUSION

ALTHOUGH I have appealed to you for justice, I realize it is unattainable; for it is an ideal, and the nearer man approaches to his ideals, the more nearly perfect he makes them and the further he pushes them away. Yet toward this ideal your ancestors reached, now bravely, now reluctantly, until it has come to pass that the failure to administer the laws as justly as may reasonably be expected from human beings in their generation, is the failure of government in its primal purpose. Since the road to this ideal has been travelled far in the affairs of men, let us see what mankind has considered justice to be.

We use "just so," "just a mile," "he is just come," and like expressions. Shylock is told:

> "Shed thou no blood; nor cut thou less, nor more,
> But just a pound of flesh."

David prayed: "Let Thine eyes look upon equity," and he sang: "He will judge the peoples with equity." Paul wrote: "Masters, render unto your servants that which is just and equal." In Leviticus we read: "Ye shall do no unrighteousness in judgment, in measures of length, of weight or of quantity. Just balances, just weights, a just ephah and a just hin shall ye have." The Romans included under justice, you are told by a

modern philosopher, such meanings as exact, proportionate, impartial, severally implying fairness of division. They also identified justice with equity—a derivative of *æquus,* which has for one of its meanings just or impartial. The famous doctor, Al-Gazali, interpreting the two articles of the Mohammedan faith, said: "At that time weights no heavier than atoms or mustard seeds will be brought out, that things may be balanced with the utmost exactness, and perfect justice administered." And we have it from Aristotle that the "Just will therefore be the lawful and the equal, and the unjust the unlawful and the unequal. But since the unjust man is also one who takes more than his share . . ."

Thus equality, fairness of division, impartiality, proportion, and especially exactness, are essential attributes of the ideal justice of the ages. Although it is true that your justice is circumscribed by your laws, as ideal justice is circumscribed by the laws of that power which the conserver of this ideal regards as supreme, these attributes remain essential to justice, no matter what the laws may be. In other words, justice is concerned only with the equal, impartial, fair and exact administration of the laws as they exist, whether they be founded on right or on wrong principles or, in their ultimate consequences, be good or bad.

Regarding the existence of certain immutable laws prescribed by that power which one may acknowledge to be supreme, one may, by them, judge human laws or the judgments under them, as just or unjust. Thus it is that most persons who go to law with ideas of

justice which are founded on right reason, return from the law, when they are at last able to escape from its entanglements, with their ideas sadly confused and with the realization that certain rumors about the absence of justice, which they had previously treated with levity, are not without at least a germ of truth. But to attribute this realization in every instance to a confusion of ideal with human justice, would be erroneous. Often it results from injustice under the law.

Out of the many objections to your system, or want of system, of administering justice, I may instance only one at present. How can there be any human justice when nearly every administrator of it has a different idea of what is law, and while a judge, when in doubt, often seems to strive, rather than to conform to those principles which are universally recognized as right, to force some new precedent on his fellow judges, apparently believing that the more mystifying and ridiculous his ruling, the greater erudition and subtlety of reasoning he has displayed?

It would be well for those who strive for justice in human affairs to have before their mind's eye Justice, the ideal. She is calm-browed. Her eyes neither grow dim with tears nor sparkle with mirth. Her voice is low, but clear and firm, neither stern nor kind. Her ears are tuned to catch the slightest vibrations of eternal law. Though tides of passion surge and break upon her, she emerges dry and unruffled. Though muck of hatred and vengeance be cast upon her without stint, she is neither soiled nor angered. Secure in her own right, resistlessly proceeding with

her task, she ignores all expressions of contempt. Though tears flow and entreaties resound for mercy, she remains as imperturbable as the force of gravitation which, according to its law and despite the prayers of many spectators, pulls the falling aëronaut to his death. She is not blind; she sees into the very heart of things. She is no respecter of persons; the strong and the weak are equal; authority may err like others. The rich and the poor stand before her; she knows neither the one for his gold, nor the other for his want of it. She neither hopes nor despairs; she does not fear. Her memory is perfect; her knowledge embraces all things that are; her reason is circumscribed by universal immutable laws over which neither she nor man has any sway, and thus she cannot err. She knows no such thing as intent, or motive, or prior conviction, or state of knowledge. Be men's intentions good or bad, their records white or black, their knowledge vast or narrow, when they perform like actions, they suffer like consequences. Her judgments are not tinged with love, with pity or with hate; but to the wise they give confidence; to the ignorant, wisdom; to the innocent security; to the guilty, a sense of right,—the parent of true repentance which, in turn, begets strong manhood and womanhood.

Thus you will see, Madam, that you cannot administer justice while either sickly sentimentality or hate and malice influence your judgments. But, since right-thinking men have recognized that errors must occur in administering justice in human affairs, they have given the wise rule that it is better to err on the side of mercy. Moreover, the criminal is a product of the

interacting of personality and environment, in which personality is largely the result of prior circumstances. Although the idea of congenital criminality inherited from ancestors near or remote, is the blasphemous product of the near brain of a pseudo-scientist, it is unquestionably true that some babes inherit physical weaknesses that, augmented by unhealthy surroundings, will later, under the influence of immoral environment, produce the perverted thoughts and passions of the criminal. But the instinct in man to grow upward toward the light of his ideals, as the flower toward the sun, is so ineradicable that even physical weaknesses, coupled with unhealthy surroundings, will not result in crime without the added influences of immoral environment. Consequently, so long as immorality exists, crime will be the unavoidable heritage of the race, but not of the individual,—a heritage that will gradually decrease as conditions improve. Indeed, thoughtful men now acknowledge environment to be so much a part of man that to some of them the criminal appears an object of pity rather than an object of hate; and one nation has given you the proverb, "*Tout comprendre, c'est tout pardonner,*" to understand all, is to pardon all. But, however beautiful the sentiment of this proverb may be, it would seem to be impractical. On the other hand, retaliation is the manifestation of angry stupidity. A wrong is never righted by another wrong. If it were, a third wrong would be required to right the second, a fourth to right the third, and so on until the whole human race would be involved. Do not think your wrong is the last because you are the stronger. Every day discharged

convicts are venting on you the hatred you vented on them. Right alone will correct a wrong. This is elementary ethics, but you ignore it.

However, some method of repression is necessary. Inextinguishable in every human breast is the feeling that security would be impossible without it. Can, then, a method of repression be obtained, which will be free from the elements of hate, malice, vengeance and retaliation and, at the same time, be more efficacious than your present system? Decidedly, yes.

From one of the laws of repression which I stated in discussing punishment, you will readily see that, if the consequences of a crime are considered by the would-be criminal and acknowledged by him to be inevitable or, if he be cautious, as reasonably probable, it is only necessary that such consequences be undesirable, and that they outweigh the benefits, real or imagined, which the would-be offender may expect to reap from his meditated offence, in order that they may be efficacious as a deterrent. Then it follows that the efficacy of such a deterrent can be increased only by increasing the number of those who consider the consequences of the acts and by making the arrest and conviction of the criminal more nearly certain. It would seem that thoughtful men have admitted the truth of this statement without, however, clearly understanding the principle underlying it, when they have approved the oft-quoted saying, "crimes increase with the severity of punishment."

Many criminals escape the penalties you prescribe for their crimes because the minds and feelings of sane and humane men revolt at the stupidity and

cruelty of your penal system. Rather than be parties to what they believe to be your vindictive hate, the victims of the criminal make no effort to convict him. This is true in many of those cases in which the thief with the aid of his friends makes restitution to the one he robbed, with the understanding that there be no prosecution. Although this latter constitutes the crime of "compounding a felony" and is punishable by imprisonment of the parties to it, it is going on all over the United States to-day. The result is that you have no opportunity in such cases to correct any criminality in the thief, even were you prepared and willing to do so. Moreover, with your present system, you are not just to the victims of the thief. You compel them to sacrifice their time in serving as witnesses at the preliminary hearing, again before the grand jury and again at the trial. You not only do not compel the thief to right the wrong he committed, but you also put him for a term of years where it is impossible for him to right it even if he would. If many of the victims of theft were to speak their minds freely, they might say something like this: "I have been robbed, and I want my money back. If your government is not able to get it for me, I want nothing to do with such a makeshift. I am above the savage passion of vengeance and I refuse to be a party to your vindictive hate. Moreover, I have no more time and money to give to another crime."

No law can be enforced, Madam, unless it receive the support and approval of the people. The statute books contain many laws that have become "dead letters" simply because the people do not want them en-

forced. Any law dealing with crime must be so humane and just in its provisions that public sentiment will support it, if you would increase the probability of arrest and conviction. If, in addition to its humanity and justice, it appeal to the interest of men, it will be still better.

As a method of repression which will accomplish all these things, in so far as crimes against property are concerned, I offer you this: *Compel the offender against property rights to make complete restitution to his victim of all the property he destroyed or stole, to pay all the actual damages the victim sustains by reason of the loss of the use of his property and to refund to you all you expend for his detection, arrest and conviction, for his maintenance in confinement and for any other legitimate purpose resulting from his crime.* This should be the sum total of your repression.

When the offender has done these things, there still remains to be considered his criminality. He may, or he may not, need to be reformed. If he committed his crime as a result of real want, or if he be a discharged convict who has tried, but whom you have not permitted to live honestly, he should be paroled as soon as judgment is rendered in his case, work should be provided him and out of his earnings he should pay as much as possible until the judgment is satisfied, and then he should be discharged and fully reinstated in all the rights he forfeited before the law by reason of his conviction.

If, however, he committed his crime to satisfy the cravings of some vice or passion, he should be placed in a sanatorium until cured, then he should be paroled.

While in the sanatorium and on parole, he should be compelled to work, and, out of his earnings, to pay the cost of his cure in addition to making restitution to you and to his victim as stated in the previous instance. When all these things have been done, he should be discharged and reinstated in all his forfeited rights.

And if he committed his crime as a result of a perverted mind caused by punishment as you now practise it, or by continual crime, or by both, he should be sent to a sanatorium to be cured of any physical ailments that may have caused his criminality. Then, if he still be in need of reformation, he should be sent to a house of correction for that purpose. As in the preceding case, during all this time he should be compelled to work, when able, to make restitution, and then he should be restored to forfeited rights.

However, there is a class of offenders in whom the need of reformation is more apparent than real. The first feeling of the captured criminal is usually one of relief. The long-dreaded, but expected, event has occurred. Sometimes this feeling is so overmasterful that the criminal appears to have no sense of his disgrace or of the evil of his crime. The extremes of emotion to which his mind has been subjected have disturbed its equipoise, and a short period of rest is sometimes absolutely essential to restore it to a healthy condition. But ultimately this feeling of relief gives place to one of shame and remorse. The police universally recognize this truth and take advantage of it to obtain confessions. If, in that moment of keen regret, such offenders be shown a way to amend the

wrongs they have committed and then be paroled on their honor for that purpose, few, if any, of them would prove false to your trust. In proof of this statement, I call to witness the parole records of the various States and the gratifying experiences of the judges of your juvenile courts, to say nothing of the natural desire men have to do right and to be as fair and just as those who treat them fairly and justly. Indeed, every success you have gained in the reclamation of criminals is due to the confidence you have placed in them, and the liberty you have given them to show their manhood.

I have made no reference to "first offenders," because this is a classification impossible to make. In practice it refers to those who have suffered their first detection. The number of offences they have committed before detection is always unknown, and many so-called "first offenders" are worse criminals than many "old offenders." It is a distinction that should never be made except with extreme caution.

Although I emphatically oppose the compelling of judges to guess at the degree of arbitrary punishment to be inflicted for a crime, and to the giving of power to a set of prison officials to presume that the convict has suffered enough punishment when he has not been detected, for a year or two, in the violation of a set of prison rules established for the purpose of facilitating the confinement of convicts and minimizing the duties of lazy guards, discretion in determining when an offender may safely be paroled must be given to some one. If you provide that confinement of the offender is not for the purpose of punishment or re-

pression, but solely for reformation, you will find that very little injustice will result by giving this discretion to a magistrate who is able to distinguish between a criminal and his crime, as a physician distinguishes between a patient and his disease. Such a magistrate should, I think, have complete charge of the place in his district for detaining criminals against property from the time of arrest until acquittal or release, and he should also have the supervision of all offenders on parole in his district. His jurisdiction should be limited to crimes against property. He should have for an assistant a medical man who understands the bearing of physical ailments on criminal thoughts, and he should always remember that his duty would be to fight crime but not the criminal. When the criminal is engaged in righting the wrong he has committed, he, too, is fighting crime, and the magistrate should not only cause him to appreciate that fact, but should also appreciate it himself.

The criminal with a perverted mind would require careful reformation before his final discharge. To my mind there is no surer guarantee of the permanency of reformation than an all-absorbing worthy purpose. The man whose life is swayed by the desire to accomplish some good end, will not jeopardize the probability of success by offending just laws. Moreover, in such a man, all other passions, emotions, sentiments and desires serve his greatest desire. He is not tempted by transient feelings that would influence the end he has in view. As I see it, no criminal is reformed who merely has a desire to do right. This desire must have a tangible form, as it were; it

must be explicit. But this end cannot always be reached in a single bound. There are certain steps leading up to it, which I think I can describe to you.

The criminal should be completely isolated from other criminals, but should be given the fullest possible liberty. I mean by this, the withdrawing of all petty regulations that only warp a man's mind and cause him to despise restraint, while they result in those strange little seeming abnormalities which near criminologists identify as characteristics of the "criminal classes," and which would be found in any innocent man placed under the same conditions. As I have previously tried to point out, there is no better means of inducing reformation than to provide remunerative toil for which the individual is adapted. But it is impossible to give to every such prisoner work in his cell that will be suitable to his abilities. Nevertheless, work of some kind should be given him and, when practicable, he should be given a choice of labor. Those in charge of him should be paid liberally in order to attract intelligent men who could be of some benefit to him and who could help the court to determine when the prisoner should be fit for liberation on parole. He should be made to understand that the purpose of his confinement was reformation, and that he would be paroled as soon as he displayed a fitness for less restraint. He should be instructed, should he need it, in the reciprocal rights and duties of individuals and in his relations and duties to you. His mannerisms should not be confounded with criminal tendencies, and the fact that he would constantly be under microscopic investigation should be remem-

bered by the court. Faults that have nothing to do with honor or virtue should not be magnified into crime. *If you succeed in destroying his desire to steal and in substituting therefor a desire to live aright, little faults that your penitentiary officials at present consider to be all-important, will take care of themselves.* First, last and all the time, he should be made to feel that your fight is against his crime and not against him. Indeed, this is the only just attitude you can have toward him.

The prisoner should be made to feel that he is not only worthy, but also capable, of reformation. From the first he should be treated as if he were naturally honest. To consider him as otherwise is blasphemy. Should he believe himself the victim of circumstances, and try to shift his responsibilities, he should be sympathized with in his viewpoint and, later, his real responsibilities should be disclosed to him, and the unmanliness of such a position made plain. He should be given to understand that though you recognize that circumstances and conditions can make a man a rogue, the real man is he who rises above adverse surroundings and is a man wherever he may be. You should give him to understand that, if he is so pliant in the hands of circumstance, you expect him to show the effect of the good conditions in which you place him. Finally, he should be told emphatically that he did a wrong, and that, however irresponsible he may deem himself for that wrong, his victim is more so, and that he must in justice redress the wrong. Of course, this is not the outline of a sermon to be preached to him at one sitting,

but rather of the attitude to be taken toward him. Under such a system I would guarantee to take the worst thief in any of your penitentiaries, if he be sane, and make him suitable for parole in less than a year. Indeed, I am sure it would be found that a few weeks or months of mental rest for the criminal, coupled with manly human treatment of him by your officials and the influence that his efforts to right his wrong would have upon him, would suffice to prepare him, no matter how seemingly hardened he might be, for the restricted freedom of parole leading in the end to full liberty.

When the thief has made full restitution to you and to the individual he wronged, he should be taken into court and, upon a showing that he is not afflicted with any liquor or drug habit or other uncontrollable passion or desire, and that he is able and disposed to live honestly, he should be restored before the law to the full rights he forfeited by reason of his conviction. He should then be told that, so far as your government is concerned, he would thereafter be treated as any other person who had not been convicted. The law having assumed control of him for the purpose of reforming him, its presumption should be that when he is discharged, he is reformed. This would impress him with the justice of your law, thus causing him to respect it and to desire to uphold it. So far as your law is concerned his "punishment" would then cease; but it must not be forgotten that it would be some time before he would enjoy the full confidence of his fellow men. No law can compel men to respect a thief, and they must be fully satisfied that he is no

longer one before they will give him their trust. This, Madam, is the real punishment which men fear. Beside it, the attempts of your present law to punish the wrongdoer are inane and futile. And one of the advantages of reformation is the bettering of a man's power of discernment and the developing of his sensibilities until he prizes more and more the esteem of his fellows.

Some of the advantages of making an act the bearer of its own consequences, by compelling a criminal to right the wrong he has done, would be the impressing of individuals with the fact that they would be the creators of their own suffering, and the making it impossible for any court to lessen the responsibilities of him who should steal a million. Of course, a governor should not be able to pardon the debts of a criminal, or to pardon him until such debts are satisfied.

The vagrancy laws should be strictly enforced against the tramp and the millionaire alike, and the consequences of vagrancy should be that the offender should be compelled to reimburse you for all money you have expended because of his crime.

Should it appear to the court at any time, while the convict is on parole, that he is unable to get along in the community where the crime was committed, or that he could do better in another part of the State, the court should be empowered to permit the convict to go there, and the latter would then be under the supervision of the court having jurisdiction over the county in which he should locate.

In case a convict should violate the provisions of his

parole, he should be returned to confinement and compelled to begin again a course of reformation.

In order to insure the capture of an escaped convict, but primarily *to reduce to a minimum the criminal's ability to evade detection,* a national bureau for the identification of criminals and offenders should be established, and to this bureau it should be compulsory to send the photograph and Bertillon measurements of every person convicted of any offence punishable by confinement in any penal institution, in any State or Territory in the Union, or in any of her districts or dependencies. As Bertillon measurements are always faulty, unless made by experts, some such further means of identification as, say, thumbprints, should accompany the photograph, together with every obtainable detail of the criminal's history. It should be unlawful for this bureau to give to any private individual, firm, corporation or detective agency, any information whatever about any criminal. Such information should be given only to sheriffs, chiefs of police, United States marshals and criminal courts; but if any other person could show any of these officials in his district that justice could be furthered by telling him anything about a criminal, the official should give him the information needed. But should the criminal record of a man who is law-abiding be published, he should be entitled to recover damages in an action for libel or slander as the case might be. A so-called national bureau for the identification of criminals is now established; but it does not receive sufficient support from the several States for it to accomplish positive results.

The effect of the establishment of such a bureau would, beyond doubt, be an appreciable diminution of the amount of crime. Whenever any person should be convicted of crime, the court would be able to learn his history, if it was a criminal one, before disposing of his case, and would then know how to deal with him. Any old police official will tell you that, though criminals can often evade the penitentiary for long periods, few, if any of them, succeed in evading arrest, and once arrested, it would be an easy matter to identify the criminal and to deal with him as a vagrant, in the absence of evidence to connect him with a particular crime. Thus you see it would be almost impossible for a convict to break his parole without being recaptured, or to relapse into crime upon his discharge without falling again into the hands of the law and being put through another and more thorough course of reformation, with his past record always known to the police and the courts. But if an honest effort be made to reform your criminals and they be given a fair opportunity to live honestly upon their discharge, few, if any, of them will ever revert to crime. The tramp, with his long-nourished antipathy for labor, would see the futility of refusing to work, when it would be impossible for him to enjoy a month's freedom or a day's imprisonment without it.

There are a few professional criminals whom no amount of reformative influence or retaliation can deter from crime. These men are experts in their line and there is no honest calling by which they can make a tithe of the money they can by dishonest means. They are audacious, calculating rogues who are usu-

ally successful, and whose knowledge of the law and the police usually keeps them out of prison. However, such men are very, very scarce. Show any of them, or any criminal who has an idea that he belongs to their class, that any time he is arrested "on suspicion" he is liable to suffer for vagrancy in the manner I have mentioned, and he will look for a less precarious means of livelihood, even though it does not promise so much money. In short, this system would make it plain to any criminal that thievery would not pay. And, Madam, there are many men who cease stealing without ever being arrested, simply because they discover that "there is nothing in it."

It might be necessary to buttress these reforms with a national law providing that State officials, who should drive a criminal or a suspicious character into another State in order to get rid of him, should be accomplices to any crime he should commit in the other State, and should suffer the consequences equally with him. This would insure that every State would do its part in the suppression of crime. A similar law might be passed by States with respect to city or county officials who should drive criminals or suspicious characters out of a city or county.

All those connected in any way with the enforcement or the judicature of law, should be selected for their fitness for their respective positions, should be retained as long as they displayed such fitness and should be paid liberally. He who honestly protects the lives, virtue and property of individuals, is engaged in a work than which none is nobler, and he is entitled to the respect and good wishes of individuals, and

to a generous recompense from you. Such offices and appointments should be taken entirely out of politics.

I have mentioned the applicability of this remedy to crimes against property only. But I believe that you would find, Madam, that the principle underlying it, compelling a criminal to suffer the natural consequences of his act, could be applied equally to other crimes.

There are three principles that should guide you in the application of this remedy and the suggestions I have made incidental to it. First: "The sure path to willing obedience and manful self-restraint lies not through slavery, but through liberty." Second: No man can continue long in any occupation or in any line of thought, without encouragement or sympathy, therefore criminals should be absolutely isolated from one another while confined, and if they visited saloons or other questionable resorts while on parole, they should be returned to confinement. Third: It is necessary to distinguish between the criminal and his crime, as the physician distinguishes between the patient and his disease.

With regard to the first of these principles, If you make me feel that you are compelling me to do anything, I cease to do it when your force is withdrawn. But I cannot voluntarily do a thing that is right, and from the doing of which I experience reward, without having a desire to repeat it.

As to the second, a hundred times I have seen a man come into prison fully impressed with the gravity of his offence, only to lose his sense of shame and to consider his crime to be trivial after a week's con-

versation with other inmates. The indiscriminate herding together of criminals is only another evidence of the fatuity of your penal system.

As to the third, all this letter has been written to try to show you the wisdom of separating a criminal from his crime, instead of handcuffing the two together.

I do not know what you may consider to be your duties toward the unemployed, but this I know, that every man who lives consumes, and idleness is a wasteful tax on industry. It would therefore seem to be wise from an economic standpoint to provide useful work for all those who want employment but cannot get it. Again, idleness is frequently a direct or an indirect cause of crime. It would therefore seem to be also wise for you to protect yourself against such crime by compelling all those who are able to work, but will not, to do so. You have plenty of work to be done on roads, waterways and public buildings, enough to provide employment for all surplus labor, including the entire population of your penal institutions. The method of financing and otherwise providing this employment I will leave to your legislators; but I would make the suggestion that such labor should be paid a wage slightly under the prevailing scale, in order to encourage workmen to seek employment elsewhere.

And now, Madam, permit me to say before I close, that I cannot find anything to justify the contract labor system in your penitentiaries and other prisons, except the selfishness of the contractors and the opportunity it affords cowardly prison officials to batten on the misery of the helpless wretches in their charge. By this system you first rob the convicts, and then sub-

mit to being robbed of your loot by the contractors. If I were to tell you a tithe of the wanton cruelty I have seen practised under this system in order to squeeze the last drop of labor out of your convicts, you would not believe that such savagery could exist in your domain in this age.

Last, but by no means least, is the question of imprisonment. *Life in prison is absolutely artificial.* A very short time in isolated confinement is ample for all needed introspection and retrospection. Then such confinement begins insidiously to attack the prisoner; it affects his body, his mind, his very soul, until he is unfit for freedom. Consequently it should never be continued longer than is necessary for the prisoner to gain a sane conception of his duties to you and a desire to perform them. Under the system of treatment suggested, rare are the criminals who would not gain this conception and this desire in a few weeks, all penitentiary officials who must justify their brutality some way to the contrary notwithstanding. Then freedom should be given gradually. The prisoner should be paroled for work during the day, returning to the house of detention for the night; later, this restriction should be withdrawn, and finally, when he has paid his debt to you and to the individual, he should be discharged.

I have given you only an outline of this system, and undoubtedly many minor problems would arise, but I do not believe they would be unsolvable to an earnest, thoughtful man. I am sure its influence on the community at large would be inestimable for good, that it would supplant in the individual the desire to avenge a wrong with the desire to right a wrong, and

that it would awaken the public conscience and bring public sentiment to the support of your law and its officials. It would not stop all crime, or even all theft. You will have criminals until the advent of the millennium; but surely it is worth while to improve on the stupid system you have now. Surely it is better to have every crime against property bear with it its own consequences, than to inflict a penalty which depends, in degree, on the criminal's ability to conform to the artificiality of prison life or to inflict arbitrary punishment which is frequently sheer vengeance; surely it is better to right a wrong than to commit a second one which makes it impossible to right the first; better to assist a criminal into right living than to sink him deeper into crime.

Sincerely yours,

CONVICT 1776.

P. S.—Realizing how unhappy you are, Madam, while not enjoying the glittering smiles of Mr. Dollar, or while not primping to win them, I have endeavored to consume no more of your time than my subject has demanded; so you have doubtlessly been able to read this letter at a single sitting. I hope Justice has remained with you throughout the perusal of it.

Happy shall I be if this communication shall cause you to give a little thought to its contents; for I am certain that such thought will result in your further investigating your wanton methods of dealing with offenders against your laws, and at last, in your abandoning your barbarous penal system for a plan that shall be more in keeping with the present age and an enlightened civilization.

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